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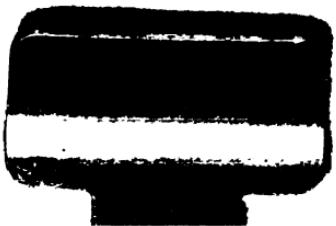
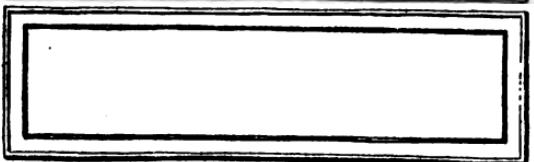
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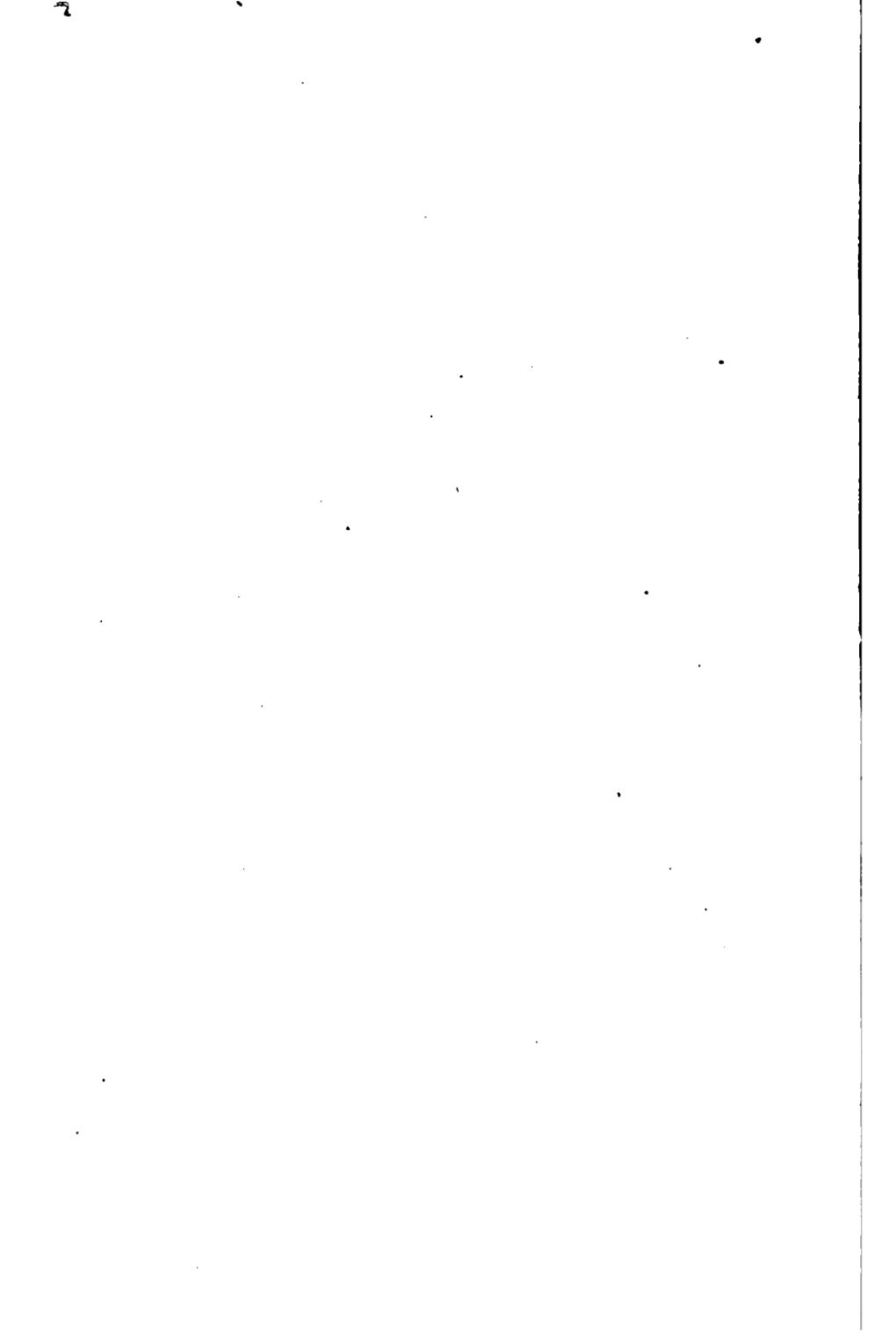
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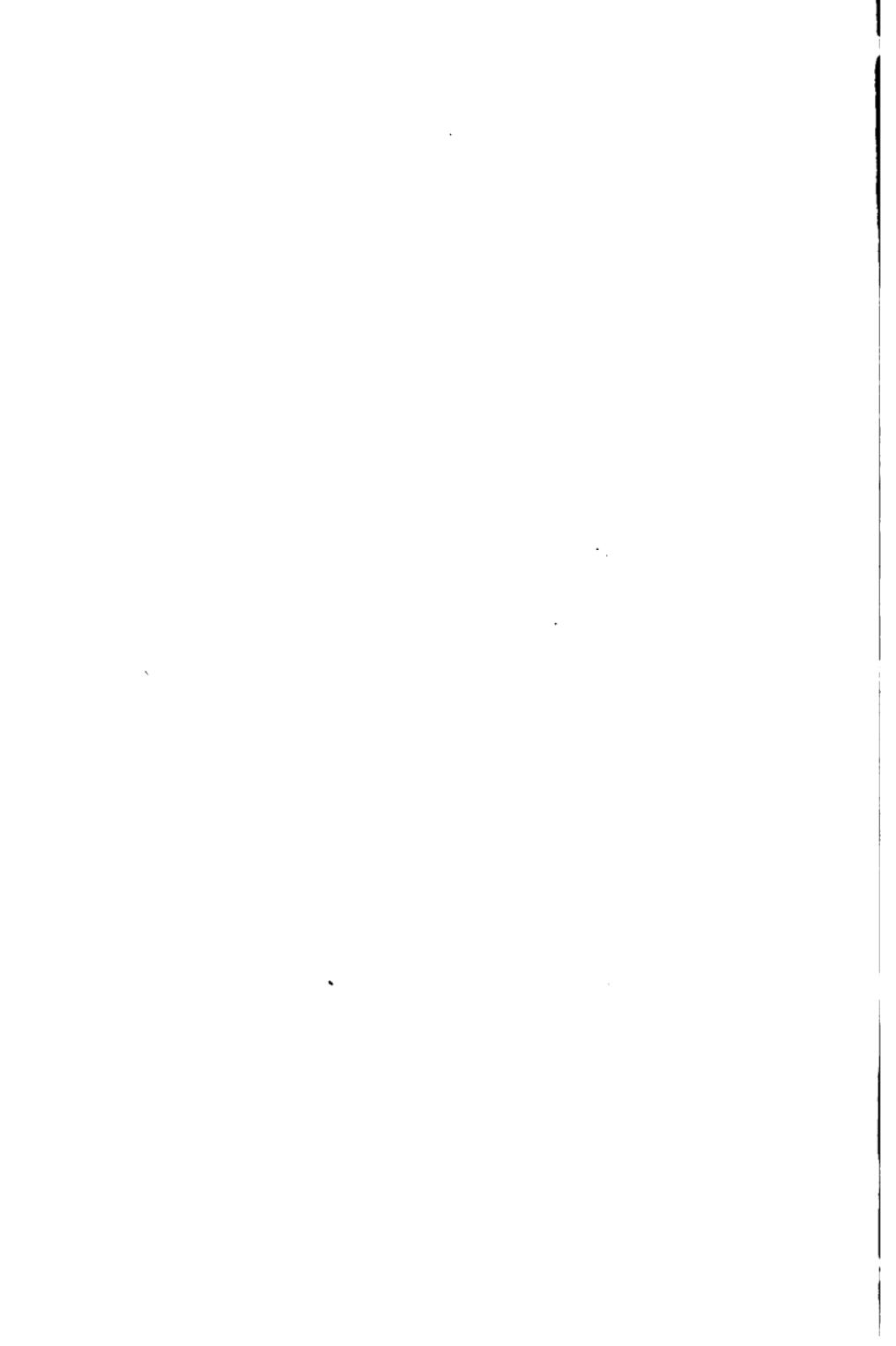








**PRUSSIAN  
POLITICAL PHILOSOPHY**



# PRUSSIAN POLITICAL PHILOSOPHY

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BY

## WESTEL W. WILLOUGHBY

**PROFESSOR OF POLITICAL SCIENCE AT THE  
JOHNS HOPKINS UNIVERSITY**



UNIV. OF  
CONNECTICUT

1918

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THE WORLD  
ATLAS

Printed in the United States of America

## PREFACE

In addition to the legal obligations which attach to citizenship in any State, whatever its form of government, there are moral obligations which increase in force in proportion to the merits of that government and the beneficence of its rule. But especially great are the moral obligations which rest upon the citizen when, as in the United States, he is given a participating voice in the determination of public policies; for the welfare of the country is thus vested, not in the hands of a few men, but in the people themselves. Upon their intelligent judgment the decision must be founded whether or not the Nation shall be guided by the highest ideals of justice and humanity, and the actions of its government wisely conceived and efficiently executed. Citizenship in a free State thus carries with it greater obligations than are implied in a State autoeratically governed—a higher degree of popular education and general intelligence, a keener sense of moral obligation to one's fellow men, and a correspondingly greater willingness to make the personal sacrifices

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which are needed if the experiment of republican rule is to be a success.

A person is, however, not qualified to play his part as a citizen of a free State unless he knows and is in agreement with the political ideals of the community of which he is a member. The American people, individually, and as a body politic, are committed to certain ideals of right and justice, not only as regards their dealings with one another and with their own government, but as regards their obligations to the other peoples of the world. At the present time they are waging a war with their entire strength against forces which are antagonistic to these ideals, and which, if not successfully resisted, will render impossible the recognition and free application of those principles of national and international jurisprudence which, they are convinced, must be upheld if the ~~soul~~ of the world is to be saved. If then, this great struggle is to be carried on with wide open eyes, it is essential that Americans should not see through a glass as darkly, but face to face with the true significance of the principles of public conduct against which they are contending.

The nature of the acts which these opposing political principles have been made to justify has been

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demonstrated during the last four years by the acts of the Prussian State; indeed it has been revealed throughout the history of that Nation. The principles themselves have found repeated and unqualified statement in the speeches and writings of Prussia's statesmen, publicists, preachers, poets, and university professors. Many of these statements have been made available in English translation to the American people in the volume entitled "Out of Their Own Mouths," and in the brochure "Conquest and Culture," compiled by Wallace Notestein and E. E. Stoll and issued by the Committee on Public Information.

Notwithstanding the candor with which they have been avowed, and the consistency with which they have been applied, so atrocious are they in character; so shocking to the fundamental ideas of justice, truth and humanity, that many of us have found it almost impossible to believe that any intellectually enlightened and christianized people could sincerely hold them. That the Prussian people do accept these doctrines is, however, certain, and the purpose of the present volume is to explain how this has come about. This it will attempt to do by showing how these several principles are related to one another and are logi-

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cal deductions from the general political philosophy which has for years been dominant in Prussia. The means whereby it has been possible to indoctrinate the body of the people with the views which those in control of the Prussian Government have, for their own purposes, desired to have accepted, will also be explained.

The philosophy which is dealt with has found acceptance throughout the German States, but is here spoken of as Prussian because it has been peculiarly the product of Prussian thought and practice, its extension being due to the dominating political influence which Prussia has exercised. As Treitschke says in his "Politics," quoting a remark of Emperor William I to Bismarck, "The Empire is nothing but an expanded Prussia."

How far the theories described in this volume may properly be spoken of as characteristic of Austrian-Hungarian thought it is not necessary to consider. The Dual Kingdom has had domestic problems and international operations which explain her actions independently of a political philosophy such as is needed to give meaning and logical coherence to the actions and utterances of Germany; and it would seem that Germany has utilized the ambitions of her

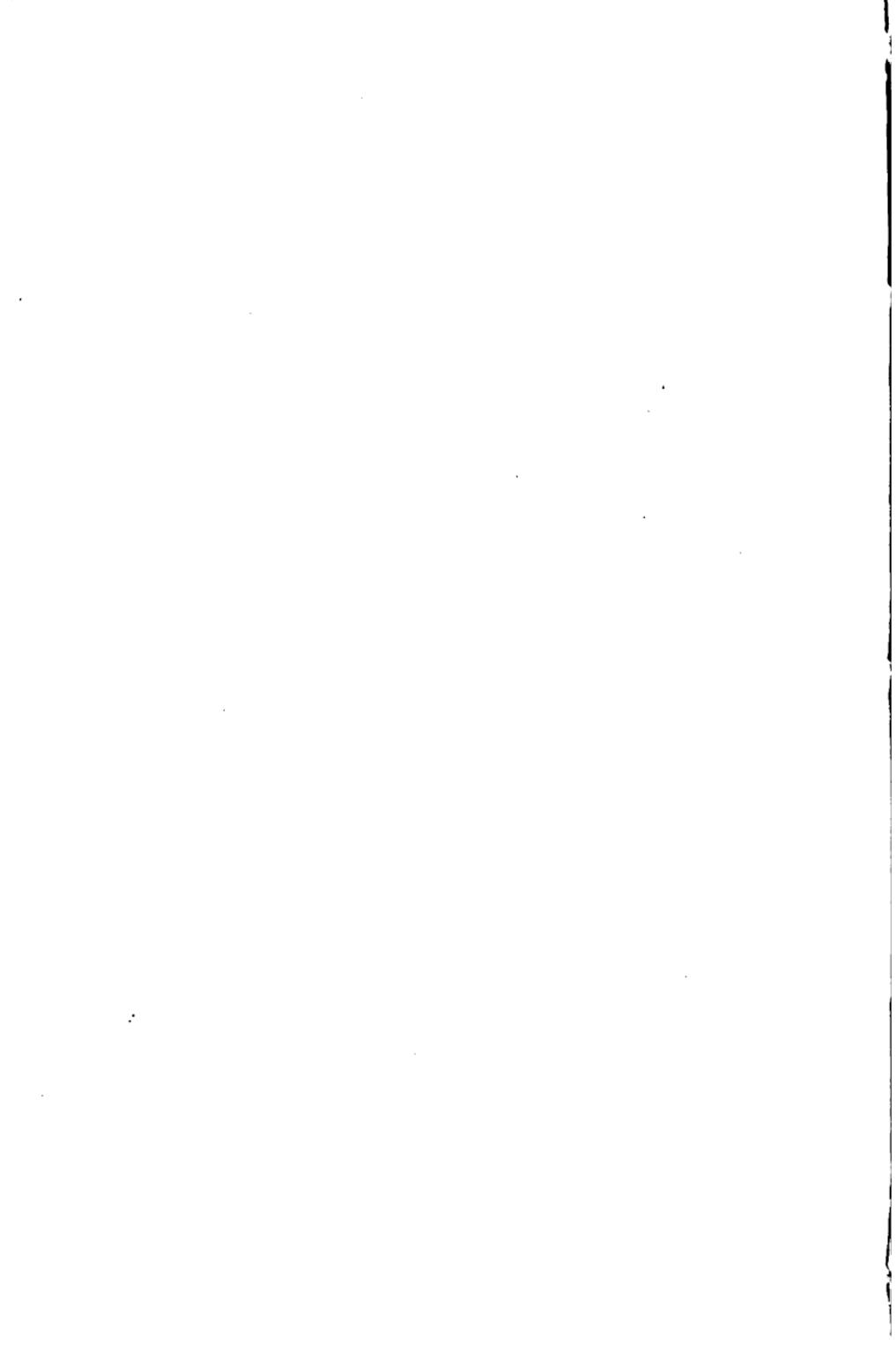
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Ally to obtain her coöperation in the realization of her own *Weltpolitik*. Austria-Hungary is of course predominantly Roman Catholic and, as Rohrbach asserts, there is a natural conflict between Catholicism and the national idea of a State such as Prussia stands for.

In order that a proper application of the Prussian political philosophy, from the American point of view, may be obtained, it has been deemed desirable to open the discussion with a brief statement of the political ideals which Americans consider fundamental.

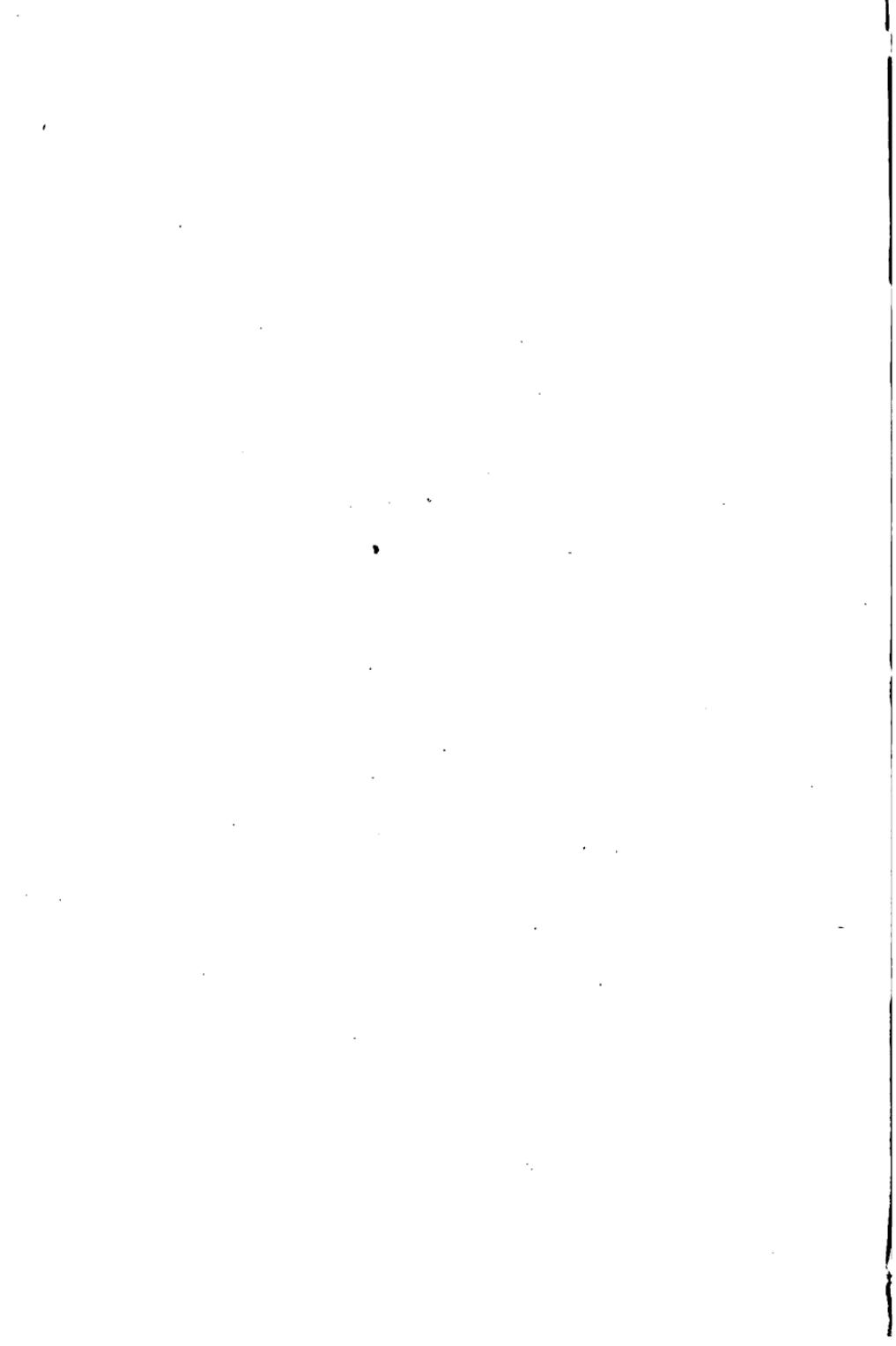
The chapter entitled "Tendencies Towards Responsible Government in Germany" is by Professor Walter J. Shepard, which, though published several years ago in the *American Political Science Review*, has needed but the addition of a few paragraphs to make it applicable to the present situation. He has kindly given his consent to its use in this volume.

Throughout the volume the author has not hesitated to make liberal use of articles which he has published in the *American Political Science Review* and the *American Journal of International Law*. He has also borrowed from a chapter contributed by him to a volume entitled "Problems of Readjustment After the War," published in 1915.



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UNIVERSITY OF  
CALIFORNIA

# PRUSSIAN POLITICAL PHILOSOPHY

## CHAPTER I

### AMERICAN POLITICAL IDEALS

The present great struggle now being waged has been justly termed a World War, not simply because nations in the four quarters of the globe are parties to it, but because it is, essentially viewed, a contest between doctrines of political right and political purpose which vitally concerns all the peoples of the world. These opposing systems of political philosophy do not exhibit merely minor differences, but are fundamentally opposed to each other. Furthermore their premises and conclusions do not have merely speculative interest, but lead to widely differing constitutional doctrines and political practices.

It may be assumed that the premises of American political life are known to those who accept and apply

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them. The statement of them in this chapter will therefore be as brief as possible and is made only for the purpose of showing the contrasts to them exhibited by Prussian political theories whose premises and logical implications are not perhaps as well known to us, but whose atrocious practical applications have continued to appear since the outbreak of the war in the summer of 1914.

Not every person can be said to be a philosopher, but every person who gives any thought to the meaning of human existence, necessarily formulates for himself certain standards of conduct and seeks the realization of certain ends which find their source in a philosophy of life even though that philosophy never finds complete and explicit formulation in his own mind.

So it is, also, with Nations. If the search be made, it will be found that their policies are determined by certain ends which they are seeking to realize, and that they justify these ends to themselves, and the means which they employ in attaining them, by fundamental conceptions regarding the nature of political authority, coupled sometimes with a

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belief in the possession by themselves of special virtues or qualifications. These fundamental conceptions which together constitute their political philosophy, supply the test or touchstone for determining not simply the expediency but the rightfulness of the acts of their governments.

In this chapter, then, the attempt will be made to state in a succinct manner the political ideals for which the American people stand to the end that, by contrast, the character of the political theories and motives of the Prussian people may be more clearly seen.

*The General Welfare of the Governed the Sole End of Government.*—American political philosophy founds itself squarely upon the proposition that the sole end for which political rule is established and maintained is the welfare of the governed. The Declaration of Independence declares that all men are endowed by their creator with inalienable rights to life, liberty and the pursuit of happiness, and that to secure them, governments are instituted among men. The Constitution of the United States in its very forefront declares that the Union is formed “to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare,

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and secure the blessing of liberty to ourselves and our posterity." And the same purposes support the governments of the individual States of the Union.

It is, then, fundamental to American political thought that there cannot be a welfare of the State, which can be distinguished from the welfare of the governed, collectively or distributively viewed. Upon this point it will be found that the American and Prussian theories stand in essential opposition. The Prussian theory, it will be found, holds that the State is a corporate entity or person, whose well-being or even prestige should be sought for as an end in itself. The American doctrine holds that the individual should render patriotic and self-sacrificing service to his State, but this is because, by so doing, the welfare of the whole body of citizens will be advanced and the true moral self of the individual himself realized. This point is so important that it will be well worth while to dwell a moment upon it.

*True Basis of Patriotism.*—By all ethical thinkers, including even the most extreme individualists, it is believed that men cannot realize their potentialities as rational and moral beings except in more or less close social relationships with one another. And, except by the out-and-out anarchist, it is believed

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that this necessary social life cannot be effectively maintained except as the community or social group gives to itself a political organization; that is, establishes and maintains a government endowed with authority and power to exercise coercion over those persons who refuse to make their acts conform to the established rules or standards of life. The philosophical justification for the existence of coercive political authority need not be here stated, for, as has been already said, it is denied only by a very few extremists, and, at any rate, is not at issue in the war that is now being waged. Americans and their Allies, as strongly as do the Prussians, uphold the ethical right of the State to existence, and the moral as well as the legal obligation of the individual to render service to it. The only difference is as to ends or purposes to be realized, through collective political effort, and, therefore, the demands that may properly be made upon the individual by those in political authority.

It is admitted by all that regard by individuals for the welfare of others furnishes the essential basis of morality. Genetic psychologists are, indeed, inclined to accept the proposition that the very ideas of right and wrong are a social product; that is, that

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the individual could not come to conceive of himself as a being with moral rights and obligations if he were not brought into association with others of his kind.

It results, then, if we start from the proposition that it is the duty of every individual to seek to realize those ends which his reason tells him are spiritually desirable, that that best good must be stated in social terms—that in seeking his own ethical self-realization, the individual must strive for the welfare of humanity, regard being had for future as well as present generations. But, though thus necessarily given a social content, it remains true that the individual, as a rational and ethically obligated being, must ever seek what he conceives to be his own best good. He feels compelled to have regard for the interests of others because his reason tells him that only thus can he perform those duties which he owes to himself. And these other than immediately selfish interests have this claim upon him because they relate to persons who, like himself, are rational and moral beings.

This conception, then, of social or political obligation, furnishes no logical ground for a claim of service or self-sacrifice upon the part of the individ-

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ual in order to advance the welfare of the social or political community in which he lives except in so far as that welfare is a summation of the interests of its individual members, or an essential element in the welfare of humanity as a whole. Hence it follows that a political philosophy which teaches that the welfare of a particular State is to be sought as an end in itself is necessarily false.

*Consent of the Governed.*—A second fundamental principle of American political philosophy is contained in the ethical proposition, stated in the Declaration of Independence, that governments owe their existence and derive their just powers from the consent of the governed, and that therefore “whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.”

By implication the doctrine thus declared denies that there can be monarchs or other rulers who have an inherent or divinely given right to exercise political authority. The doctrine also carries with it the proposition that all governments should be so organ-

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ized and operated that legal and orderly methods exist for ascertaining whether or not the people are satisfied with the form or policies or methods of administration of the government that is over them, as well as with the officials by whom it is operated. It goes even further, and asserts that when these means of control fail, and when the existing government is conceived to be destructive of the ends for which it was instituted, the people have an extra-legal, but none the less ethical, right to alter or abolish it, and to institute a new government in its place. Reason suggests, however, that such revolutionary action should not be taken until all efforts to obtain political reform by orderly and legal means have failed.

No support is therefore given by the doctrine of the consent of the governed to a claim of ethical right upon the part of individuals or groups of individuals to refuse obedience to a *de facto* government upon any occasion that they may desire to do so, or much less to seek its overthrow by force. If they are conscientiously convinced that the government should be changed as regards its form, it is their right to seek to persuade others to their opinion in order that this change may be secured in the orderly and constitutional manner in which existing laws provide.

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If no such constitutional means exists, or if for any reason, they prove ineffective, and those who desire the change have reasonable grounds for believing that the best interests, not simply of themselves but of the community generally, will be advanced by revolutionary action—that existing conditions are no longer tolerable and not otherwise remediable—then, and only then, revolution is ethically justifiable. The American doctrine of the consent of the governed thus stands opposed to the doctrine so widely held in England until the end of the seventeenth century and in most of the States of Europe for a century later, that, under all circumstances, oppressive though the conditions be, obedience, passive even if not active, is due as a moral and religious obligation to the political authorities that happen to exist.

As a general proposition it is thus seen that the doctrine of the consent of the governed does not support a right of secession upon the part of the people of any particular section of a State; but it does imply that the will of all territorial groups of the governed should be allowed free expression and be given its due weight in determining the form and policies of the government.

*Dependencies.*—The doctrine of consent of the gov-

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erned is not inconsistent with the political control and direction of one people by a superior State, and the denial to that people of a full participating voice either in the control of the sovereign State or of their own local government, if it plainly appear that the people thus controlled are not intellectually or morally qualified for self-government. The American doctrine, however, makes it morally imperative that the rule thus exercised should sincerely seek the welfare of the subject population and endeavor by the promotion of education or otherwise to hasten the time when full rights of self-government may be safely and wisely granted.

It is to be observed that the foregoing denial of the right of self-government to peoples not qualified to exercise it wisely for their own good is in fact justified upon the same grounds that the rights of active citizenship, that is, of the suffrage and eligibility to office, are denied to those members of the ruling body politic who are deemed not qualified to employ them with intelligent and impartial judgment. Here, too, the obligation is upon those who possess the reins of government not only to have due regard for the interests of the disfranchised but to take every possible means of rendering as large a

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portion of the citizen body qualified for the rights and duties of active citizenship as is practically possible.

*The People the Constitutional Source of All Political Authority.*—The doctrine of the consent of the governed states an ethical proposition. Correlative to it is the legal principle upon which American constitutional jurisprudence rests that all public authority is obtained by delegation or grant from the body of franchised citizens. This of course means that, where there is no written instrument of government, as in England, the electorate shall have the legal means to determine, in the last resort, what public powers shall be exercised; and, where there is a written Constitution, that, viewed as a legal proposition, this instrument shall owe its creation and maintenance to the expressed will of the electorate.

From this fundamental constitutional principle it follows that no public functionary, high or low, can rightfully exercise any official authority save that which has been given to him by a law which has received the sanction of the people, given directly by constitutional grant, or in the enactments of their duly chosen representatives. As has been declared by the Supreme Court of the United States, the most

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august judicial tribunal in the world, "no man in this country is so high that he is above the law. All the officers of the government, from the highest to the lowest, are creatures of that law and are bound to obey it."<sup>1</sup>

This same doctrine is applied in all the States of the Union. As illustrative of this is the statement in the first constitution of Massachusetts, adopted in 1780, and retained in all its subsequent constitutions, that "all power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive or judicial, are their substitutes and agents, and are at all times accountable to them." In the famous Bill of Rights, prefixed to the Constitution of Virginia, adopted in 1776, the doctrine receives still more emphatic statement in the words: "That all power is vested in and consequently derived from the people; that magistrates are thus trustees and servants, and at all times

<sup>1</sup> This doctrine applies in England as well as in the United States, the only possible exception being with regard to the King. But, as is well known, firmly established constitutional practice prevents the latter from exercising any of his official powers, even those included within his so-called "Prerogative," except upon the advice of his ministers, who thereby take upon themselves the full responsibility for what they advise.

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amendable to them." And, as is well known, the preamble of the Constitution which provides for the National Union declares—"that the People of the United States . . . do ordain and establish this Constitution for the United States of America," thus vesting it upon that broad foundation which American conviction asserts should support all political authority.

When we come to consider Prussian constitutional theory we shall find an absolute denial of this constitutional doctrine; and of the corollaries that flow from this denial we shall have something to say.

*Representative Government.*—In every State it is necessary that the actual exercise of the executive as well as of the judicial powers of government shall be vested in the hands of a comparatively small number of people. And, if the political community is of any considerable size, it becomes equally imperative that the legislative function of deciding upon the public policies to be adopted and the laws to be enforced shall be surrendered by the body of the electorate into the hands of a smaller body of men chosen by themselves to represent them and speak in their behalf. Thus is established what is known as representative as distinguished from directly demo-

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cratic government. Though the rights of the people to participate actively and directly in their own government are thus narrowed, the American doctrine of popular sovereignty is not infringed if no one is denied the right to vote or to hold office upon unreasonable or arbitrary grounds; if the electorate is given free opportunity to select those whom they wish to represent them; if adequate facilities are provided for the formulation and expression of a public opinion upon all matters of political importance; if constitutional practice is such that the representatives thus chosen can make their discussions controlling upon those in executive and judicial authority; and finally, if means are provided whereby, through published administrative reports or legal processes, those who exercise executive and judicial authority may be held legally and politically responsible for the manner in which they employ the public powers entrusted to them.

The conditions which have just been stated make it plain that not every government can be said to be truly representative in character which possesses a so-called legislative body composed in whole, or in part, of representatives elected by the people. When we examine political and constitutional conditions in

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Prussia and in the German Empire it will appear how small a part the governed play in the control of their own political destinies, even though the members of one branch of the legislature are elected by the people.

*Written Constitutions.*—Besides demanding that the government shall be one for the people, and, directly or indirectly a government by the people, a further fundamental principle of American political philosophy is that the form and powers of their governments, Federal and State, shall find enumeration in written instruments of government. These fundamental documents are framed and put into force by methods which secure especially mature consideration of their principles, and care is taken to found them upon a consent of the people obtained in a manner more solemn than is the case with ordinary laws. It is also provided that they may not be altered except according to special procedures which they themselves prescribe. Furthermore, inasmuch as these written Constitutions furnish the legal source and fix the legal limits of all governmental powers, legislative as well as judicial and executive, it is usual to speak of them as stating a higher and more fundamental law than the ordinary legislative body

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is able to provide. In other words, not only is every executive act inconsistent with their provisions rendered illegal, but the legislature itself cannot enact a valid measure not warranted by its terms. If it attempts to do so, the courts which are the final interpreters of the Constitution, will refuse to recognize the legal validity of the enactment when its application is involved in cases coming before them for adjudication.

This fundamental principle of American constitutional law has received uniform acceptance since it was stated by the Supreme Court of the United States in 1803 in the case of *Marbury vs. Madison*. The great Chief Justice, John Marshall, in the course of the opinion rendered by him in that case, said: "Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the Nation, and consequently, the theory of every such government must be that an act of the legislature repugnant to the Constitution is void."

As thus stated in universally applicable terms, the proposition is too broad, for, as has appeared since Marshall's time, there have been established a considerable number of written constitutions, which, as

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interpreted by their respective courts, have not operated to render invalid legislative acts repugnant to their provisions. The result is that these constitutions are amendable by simple legislative act. In fact, however, this has not been a very frequent occurrence, their fundamental and morally binding force being sufficient to preserve these constitutions substantially intact. In truth, however, the ease with which a written constitution may be amended is a matter of policy and not a question pertaining to the fundamental nature of the instrument itself. Whether or not there shall be a written constitution is a matter of expediency, and has no necessary bearing upon the form and powers of the government that is to exist. If, however, there is a written constitution, it is a matter of fundamental importance whether it be conceived of as deriving its force from the will of the government, or as owing its existence to the legislative fiat of a monarch.

*Powers of Government Limited.*—Closely allied to the constitutional principles already discussed is the doctrine, emphasized in American jurisprudence, that the legal powers of government should not be permitted to extend to all matters of possible public control, but that from their operation should be ex-

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cepted certain private rights of the individual with reference to his life, liberty and the possession and use of his property. In the enjoyment of these rights the individual is thus protected by the government, not only against possible infringement by other individuals, but against undue infringement by the government itself. These rights are thus secured to the individual not only by the rule enforced by the courts that no organ of government may exercise a power not granted to it by the Constitution under which it operates, but by the fact that these rights are specifically enumerated in the Constitution and expressly withdrawn from governmental control. It is true that the people themselves, if they should see fit, might amend their written constitutions so as to bring certain or all of these rights within the control of laws which the legislature may enact, but, until they do so, these rights are guaranteed against governmental abridgment or abrogation. Certain of these rights are, however, universally deemed so essential to individual liberty and welfare that there is little likelihood that constitutional amendments will ever curtail or destroy them. As regards their character it may be said that they include not only matters of procedure but of

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substance as well. Thus, especially in the field of criminal justice, there are constitutional provisions regarding jury trial, confrontation with witnesses, immunity from self-incrimination, double jeopardy, etc., which are considered necessary for the protection of the accused against possible arbitrary and oppressive action on the part of those to whom the enforcement of the criminal laws is entrusted. Upon their substantive side, it is provided that the individual shall not be deprived of life, liberty or property, no matter how proper the procedure followed, if the law authorizing it is not founded in equity and good conscience, or is not in conformity with those principles of reason and justice which, through hundreds of years of judicial selection, have become embodied in what is known as the Common Law and which furnishes the basis for the private law which American courts apply. That these principles of justice as they are enumerated in our national and State Constitutions are deemed to be inherently just is shown by the fact that, though constitutionally not obliged to do so, the American government has extended their application to the peoples of the Dependencies of Porto Rico and the Philippine Islands. In the instructions which were given by the Presi-

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dent to the Philippine Commission, dated April 7, 1900, the following paragraphs serve to show not only the principle of government of which we have been speaking, but to enumerate the more important of these rights:

"There are certain great principles of government which have been made the basis of our governmental system, which we deem essential to the rule of law and the maintenance of individual freedom. . . . There are also certain practical rules of government which we have found essential to the preservation of these great principles of liberty and law. . . . These principles and these rules of government must be established and maintained in [the] islands for the sake of the liberty and happiness [of the people of the islands], however much they may conflict with the customs or laws of procedure with which they are familiar. . . . Upon every division and branch of the government of the Philippines, therefore, must be imposed these inviolable rules: That no person shall be deprived of life, liberty or property without due process of law; that private property shall not be taken for public use without just compensation; that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defense; that excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted; that no person shall be put twice in jeopardy for the same offense, or be compelled in any criminal case to

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be a witness against himself; that the right to be secure against unreasonable searches or seizures shall not be violated; that neither slavery nor involuntary servitude shall exist except as a punishment for crime; that no bill of attainder or *ex post facto* law shall be passed; that no law shall be passed abridging the freedom of speech or of the press or the right of the people to peaceably assemble and petition the government for a redress of grievances; that no law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and that the free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed."

*Legal Equality.*—A further fundamental principle of American political life is the equality of all individuals before the law. This means that no arbitrary distinctions are drawn between individuals or classes of individuals. All are equally entitled to those rights which the law recognizes and are held equally responsible for the acts which they commit. This does not mean that laws may not be enacted which apply to particular classes of persons, but the classifications thus created must, under American constitutional law, be based upon actual facts which render them reasonable; they may not be made to depend upon circumstances which have no actual relation to the legal rights or obligations which the law creates or imposes. Here again we may quote the

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authoritative language of the Supreme Court of the United States when it says that "in all cases it may not only be seen that a classification has been made, but also that it is one based upon some reasonable ground,—some classification which bears a just and proper relation to the attempted classification,—and is not a mere arbitrary selection." Thus under American law there are no special rights or obligations attaching to race, or color, or wealth, or occupation, or education or religion or to any other arbitrarily created status.

*Federal Form of Government.*—A final constitutional feature of the American system of government is that it provides for a government that is federal in form. For many years there was confusion of thought, growing out of this fact and of the historical steps leading up to the establishment of the Union, as to nature of the loyalty and the allegiance owed by the citizen to the Central Government—a confusion for the dissipation of which a civil war was required. Since the conclusion of that contest, however, there has been no question of a divided loyalty. The primary allegiance of the citizen is to the United States, and to this allegiance no qualifications attach because of the

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existence of a federal form of government. Who shall be admitted into the country and who shall become its citizens are wholly and exclusively matters of national concern. A citizenship attaching to the individual States of the Union is indeed recognized, but it is one that is subordinate to national citizenship. A further fact which, however, is not peculiar to the United States, but is not sufficiently recognized, is that an unnaturalized alien, domiciled in this country, owes an allegiance to the United States, whose protection he is enjoying, and that he may be held for treason in case he is guilty of levying war against the United States or adhering to its enemies or giving them aid or comfort. "The law on this subject," the Supreme Court of the United States has declared, "is well settled and universally recognized."

*General Observations.*—Certain general observations may be made with reference to American political ideals collectively considered. The premises upon which they are founded spring from what is conceived to be the moral nature of mankind. The doctrines of the equal right to consideration of all citizens, in private as well as public law, implies an inherent moral worth and dignity of the individual

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as a man, and not as a member of a particular race, or nation, or social class. The same rules of morality which govern in private life are held to apply in public life and to the relations of States to one another. It is true that Americans believe that their political ideals are to be preferred to those that differ from them. They would not be ideals if there were not this conviction. But no claim is made that other peoples should not be left free to form for themselves their own policies and standards of political conduct so long as those policies and standards are not such as necessarily threaten American freedom. In other words, no special world mission is claimed for the American people, no unique title to the favor of Providence, no national rights asserted that stand in essential and irreconcilable contradiction to the equal rights of other members of the family of nations.

In confirmation of this is the character of the aims for the realization of which the United States has pledged its entire manhood and material resources. These aims have found statement in President Wilson's address to Congress on January 8, 1918. They are fourteen in number, and an examination of them shows that in no instance is a de-

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mand made that can be said to concern the special interests of the United States as distinguished from those of the other Powers, including even the nations with whom the United States is at war. Governing all these aims there are certain principles of humanity, of international equity, and of economic and political freedom, which, it is believed, must be recognized and applied if peaceful and coöperative relations between nations are to be maintained, and civilization maintained. Nine of these demands are territorial in character, and relate to Russia, Belgium, Alsace-Lorraine, Italy, Roumania, Serbia, Montenegro, Turkey, Poland and the Colonies. In no case is there a suggestion that the political jurisdiction of the United States be widened or its political influence extended. Nor are territorial readjustments demanded primarily in order that thus the power of certain Nations may be increased, and of other Nations decreased. Not even a punitive element is present. The territorial changes are declared to be imperative in order that wrongs may be righted, that national good faith may be vindicated, that the principle of nationality may have its proper application, and that conditions that jeopardize the peace of the world may be corrected. It is demanded that Bel-

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gium be evacuated and made whole in order to "restore confidence among the nations in the laws which they have themselves set." "Without this healing act," says President Wilson, "the whole structure and validity of international law is forever impaired." The restoration to France of Alsace-Lorraine is required in order that the wrong done by Prussia in 1871 be righted and a condition corrected that for fifty years has unsettled the peace of the world. A settlement of all questions affecting Russia is demanded upon terms which will secure to the country "the best and freest coöperation of the other nations of the world in obtaining for her an unhampered and unembarrassed opportunity for the independent determination of her own political development and national policy." With regard to the other countries, the territorial demands, in every case, are determined by rights springing from "historically established lines of allegiance and nationality," and not for the purpose of furnishing spoils of war to the Entente Powers, or for the mere sake of increasing their economic or military power, nor in order to punish Germany and her associates for the immeasurable wrong they have done to the world. Even

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as regards colonial claims, the demand is that the interests of the populations concerned shall receive due consideration.

As regards the demands not primarily territorial in character, it is seen that principles of democracy, economic freedom, and international equity and peace are emphasized. It is urged that secret international understandings be abandoned, and that diplomacy proceed frankly and in the public view; that freedom of the seas in war as well as peace be as far as possible secured; that economic barriers between States be abolished; that armaments be reduced to the lowest point consistent with domestic safety; and that "a general association of nations be formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small states alike."

Thus, throughout these demands, and giving unity to them, there runs a liberal and humanitarian spirit which is founded upon a political philosophy which demands that a nation shall abide by its covenanted word; that the rights of independent States, however small, be respected; that "historic lines of al-

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legiance and nationality" be regarded; that international comity and coöperation be encouraged; that the dictates of humanity be observed even in time of war; and that political power be not sought as an end in itself.

## CHAPTER II

### THE GERMAN WELTANSCHAUUNG

Prussian political philosophy does not exist as a system of thought apart from the general speculative theories of the Teutons, but constitutes an integral part of what, to use a favorite word of theirs, is their *Weltanschauung*, that is, their conception of the nature and significance to men of the cosmic or world processes. The predilection of the Germans for idealistic interpretations of the inner meaning of human existence may be said to be a national characteristic which they have manifested since the middle of the eighteenth century. Almost all the leading metaphysicians since Kant have not been satisfied until they have applied their speculative conclusions to an interpretation of the nature and purposes of political life; and, as is well known, in the universities the teaching of theology and law has been kept in the closest possible relationship to abstract speculative thought.

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This mystical or metaphysical *Tendenz* upon the part of the German peoples is pointed to with pride by their own writers. In a recent volume, published since the war, containing a series of essays by eminent university professors, in which the attempt is made to interpret Teutonic thought to the scientific world, is a chapter entitled "The Spirit of German Kultur," by Professor Ernst Trötsch of the University of Berlin. In this chapter the author says: "The German is by nature a metaphysician who ponders and strives, from the spiritual inwardness of the universe, to grasp the inner meaning of the world and of things, of man and of destiny. It will always be idle to explain the origin and development of this predominant, though by no means universal, characteristic. It remains the final German life secret." And elsewhere he says that the nature of political freedom is to be found in the depths of the German spirit itself—State and spirit belong together. "A similar metaphysical tendency," he adds, "though naturally less closely connected with the State, holds sway in German art."<sup>1</sup>

In order, then, to give Prussian political philos-

<sup>1</sup> *Deutschland und der Krieg*. Translated under the title *Modern Germany in Relation to the Great War*.

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ophy its proper setting, and especially in order to understand the broad philosophical grounds upon which Germany, under the direction of Prussia, justifies her *Weltpolitik*, it is necessary to say a few words at least regarding the views of her speculative writers concerning the meaning and purpose of human existence.

Philosophy is, of course, but the application of logic to the phenomena dealt with; and a belief in the possibility of obtaining a full understanding of the inner meaning of human existence is necessarily predicated upon the premise that there is a rationality in the strivings of men and in the contests of peoples. If it were not believed that there is an end towards which humanity is struggling, or being providentially impelled, the events of history would have only a fortuitous character and be impossible of combination into a philosophical whole. For it is impossible to sum up, in final terms, a series of facts which has no logical ending.

The German philosophy of life starts, then, with the proposition that there is a meaning to human history—that the events recorded by it find their truest and abiding significance in the parts played by them in a rationally ordered world process, and that this

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human destiny, when determined, furnishes not only an explanation of, but provides an ethical justification for, all acts, whether of men or of nations, which tend to advance its realization.

In Germany since the time of Hegel the conviction has been held that human history as thus philosophically interpreted demonstrates that particular ethnic or political groups have been and still are called upon to make specific contributions to the working out of the world idea to which humanity is committed. Inasmuch, however, as no certain and indubitable evidence exists for determining just what part each nation is providentially called upon to play in this cosmic scheme, each nation is left free to make the decision for itself, with a result, psychologically not surprising, that there have been few if any peoples, who have arrived at any appreciable stage of self-consciousness, who have not sincerely believed that their ideals of culture were worth perpetuation and territorial expansion. The result has been international competition. But this, in the eyes of the Germans, has not been an evil, since thus, they assert, the true test of superiority of culture, of the right to existence or even to world power is made manifest. *Die Weltgeschichte ist das Welt-*

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*gericht* as Hegel said. "God will know his own," as was declared upon the occasion of the Massacre of St. Bartholomew. Out of the international competition thus necessitated those nations will survive which have the most to contribute to the advancement of humanity towards the final goal of human effort.

To such a philosophy of history as this, though from its very nature not capable of complete demonstration, no serious objection can be raised. To the rationalistic fatalist it yields an optimistic result. To the believer in a divine and beneficent providence it is a corollary of his creed. It assumes a malign character towards the non-Teutonic peoples only when it is coupled with two other postulates of Prussian philosophy, each of which lead in practice to the same result.

The first of these postulates is that, in the struggle between the nations for existence, physical, material power, interpreted in terms of military strength, is the ultimate criterion to be relied upon as testing the right to survival. The second postulate is that, by reason of excellencies inherent in them as a race, the Teutonic peoples are so incommensurably superior to all other peoples that all means are justi-

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fied that will in any wise or to any degree advance their national interests.

As applied to men individually considered, or to groups of men in their non-political relations, the Germans hold that the struggle for existence is upon a plane where mere force and cunning are not, and should not be, the determining factors. They, in agreement with the rest of the world, do not deny that men, as intelligent and morally responsible beings, can take thought as to what is rationally and morally desirable; can control to a considerable extent the conditions under which competition shall be carried on, or whether it shall be carried on at all; and that thus it can be brought about that those who survive will be ethically, and not merely biologically, worthy of survival. The evolutionary process regarded as a mere biological matter, is of course a wholly non-moral process. The changes which it produces may or may not lead to what is termed progress even from a biological standpoint, for the environment may be such that the creatures with less developed structures and functions are the fittest to survive and, therefore, do survive. Therefore, as Huxley pointed out in his famous Romanes Address, "Evolution and Ethics," the essential aim of civili-

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zation among men is to substitute ethical and spiritual criteria of fitness for survival in place of the non-moral and physical factors which determine superiority among the individuals of mere brute creation.<sup>1</sup>

It is true that German writers upon Evolution have not taken the pains that English and American writers have taken to point out the essential distinction between human progress as defined in ethical terms, and biological changes produced by competitive processes, but they have not been ignorant of or denied this distinction. It is only when they come to deal with competition between National States that they accept the doctrine that physical force; military strength, may and must be relied upon to determine the rightness and fitness for survival.

Thus we find war accepted and even praised as a providential or divine agency of human progress. German philosophers, historians, and scientists unite with military men in its laudation. It is not simply men like Nietzsche who declare that men should seek peace only as a means to new wars, but eminent moral philosophers like Lassen who preach that States are by nature in a state of war with one another,

<sup>1</sup>The author here ventures to refer also to the chapter entitled "Ethics of the Competition Process" in his volume *Social Justice*.

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that "conflict must be regarded as the essence of their relations and as a rule, friendship as accidental and exceptional," and that "in the relations between States this right of the stronger may be said to be moral." Historians like Treitschke affirm that "the Living God will take care that war shall always return as a terrible medicine for the human race."<sup>1</sup>

When we come to the military writers of Germany there is a consensus of opinion from Clausewitz to Bernhardi, Moltke and the Crown Prince. War, says Bernhardi, gives a "biologically just decision"; it is "an indispensable factor in civilization"; without it, "there would be no racial or cultural progress." "War is part of the eternal order instituted by God," declared Moltke in 1880 in a letter to Bluntschli. "War is the noblest and holiest expression of human activity" is the doctrine declared in the official organ of *Jung Deutschland*. "War is a holy thing, the holiest thing on earth," is the opinion of the eminent economist, Werner Sombert.

This *gloria in excelsis* being sung to war, the conclusion necessarily follows that it is to be waged without regard to moral scruples whether based upon general dictates of humanity, long established pre-

<sup>1</sup> *Politik*.

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edents, or solemnly plighted word. The struggle for survival between peoples being placed upon the wholly non-moral basis of physical force, this is but a logical corollary. "The will to war," says Clausewitz, "must go hand in hand with the resolution to act on the offensive without any scruples." Military necessity justifies every act. The procedure of war is "completely ruthless" and "States cannot permit themselves to be guided by general principles of law," are statements taken from the work of General von Hartmann on "Military Necessity and Humanity" (*Militärische Notwendigkeit und Humanität*) published in 1877. In the official war book issued by the German General Staff it is declared that there has been a modern tendency dominated by humanitarian considerations to apply usages of war which are an essential contradiction to the nature of war, but that "by steeping himself in military history an officer will be able to guard himself against excessive humanitarian notions." "The argument of war permits every belligerent state to have recourse to all means which enable it to attain the object of the war." "We are compelled to carry on this war with a cruelty, a ruthlessness, an employment of every imaginable device unknown in any previous war," is

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the declaration of Pastor Baumgarten. "The power of the conqueror becomes the supreme moral law to which the vanquished must submit," declares Lieut. Kuhn in his *Die Wahren Ursachen des Weltkrieges*. "To introduce into the philosophy of war itself any principle of moderation would be an absurdity," says Clausewitz. And, if conformity to such principles have been agreed to, the agreements may rightfully be disregarded. "In this matter," says another German military writer, "States cannot permit themselves to be guided by general principles of law." And again, "Utterances of approved legal authorities and precedents found in international settlements can hardly claim full authority in the law of war. . . . Military problems . . . can recognize no other law than that of military necessity."<sup>1</sup>

These quotations do not need to be multiplied, as they might be, for, if the proposition be accepted that world progress is secured only by a physical struggle *à l'outrance* between States which are united by no reciprocal moral obligations, but stand apart from one another as, by very nature, mutually antagonistic, it is clear that no international understand-

<sup>1</sup> Gen. Julius von Hartmann. *Militärische Notwendigkeit und Humanität*, in the *Deutsche Rundschau*.

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ings or covenanted agreements can be given a morally binding force. No other arbitrament of contending interests is possible save that of naked force.

How it has come about that the worship of Power has found so prominent a place in Prussian political philosophy is, in part, explained by Prussia's history. The position which Prussia has obtained among the nations of the world she has obtained by war, and under the direction of leaders who have been restrained by no moral scruples as to the occasions when the sword should be resorted to or as to the manner in which it should be employed when once drawn. Frederick the Great and Bismarck stand out as the two great national heroes in the eyes of the Prussians, and no two political leaders have ever lived who have more frankly avowed and practiced the doctrine that when the interests of the State are involved, considerations of morality find no legitimate application. Having no glorious episodes in their history, save those of military conquest, no successful struggles for civil and political liberty such as are found in the histories of England, of France, of Italy, of the United States, and, in fact of almost every other great nation, it has not been inexplicable

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ally and intellectually superior to all men. We are peerless." And the eminent scientist, William Ostwald, since the beginning of the present war, has declared his conviction that "Germany has reached a higher type of civilization than other peoples, and the result of the war will be the organization of Europe under German leadership." And Bernhardi, speaking for the military mind, declares that "The proud conviction forces itself upon us with irresistible power that a high, if not the highest, importance for the entire development of the human race is ascribable to the German people."

Statements such as these from the leading men of Germany could be quoted beyond number, but would serve no useful purpose since the charge that they do hold this exalted estimate of themselves as a people is not contested by any of Germany's spokesmen, although it has at times been suggested that expedience would dictate that the claim be not too blatantly made.

It has remained, however, for the present Kaiser to reiterate the doctrine that this Teutonic superexcellence is the result of a gift from the Christian God who has laid a special charge upon the German people, endowed them with special merits, and continues

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to keep special watch over their political fortunes. Characteristic among the many utterances of the Kaiser are the following: "God would never have taken such great pains with our German Fatherland and its people, if he had not been preparing us for something greater. We are the salt of the earth." (March 22, 1905.)

"We shall conquer everywhere, even though we be surrounded by enemies on all sides; for there lives a powerful ally, the old good God in Heaven, who . . . has always been on our side." (March 28, 1901.)

Joined with this ascription of a divinely chosen character to his people, is the conviction of the Kaiser that to him personally has been divinely given the mission of ruling over the Germans and leading them forward to the *Weltmacht* which it is their destiny to realize. This is a doctrine which we shall consider when we come to deal with the Prussian conception of monarchy.

With reference to the divine mission which the Germans thus claim to have, the point needs emphasis that the assertion of its existence necessarily makes impossible a true equality of rights and mutuality of interests among nations. It becomes an

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impiety to resist the expansion of German influence and power, and it is of little consequence what sufferings may befall other peoples, if, as a result, the slightest advantage accrues to Germany. Cruelties too terrible to be described receive complete justification if they are dictated by this aim. The end being absolutely desirable a measuring of means for its realization has no longer a meaning. And thus, when we read of the rapine and devastation committed by the German armies of occupation from which, at the most, only slight and ultimate advantage could possibly accrue to the German State, one is reminded of the statement of Cardinal Newman in his *Apologia* that it were better that the whole world should pass away and all the living beings upon it perish in unutterable misery, than that a single sin against God should remain unrepented for and unforgiven.

The historical origin of the conception of the Teutons as a chosen people, elect of God, is, so far as such a belief can be given a specific date of origin, to be found in Fichte's *Reden an der deutschen Nation*, delivered in 1807-1808 at the University of Berlin. Then at the nadir of their political fortunes, the German people were exhorted to seek in the realm of the spirit their rightful place of in-

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fluence in the world. "You it is," said Fichte, "to whom among all modern nations the seeds of human perfection have been entrusted, and to whom has been given the first place in developing them. If you succumb, humanity succumbs with you, and all hope of any future restoration will be lost."

This noble appeal met with a cordial response at the time it was made, and it would be difficult to exaggerate its stimulating influence upon a people so discouragingly situated as the German people then were. In so far as it pointed out the way by which, through education and the promotion of scientific research, the strength and influence of the nation might be recovered and continually increased, the words of Fichte have never lost their inspiration. In so far, however, as their purpose was to elevate matters of the spirit above those material in character, they soon lost their force. The beginnings of political liberalism were stamped out as soon as the several German monarchs found themselves freed from foreign control and secure upon their thrones.

Both Stein and Gneisenau had urged that Prussia's government be placed upon a modern constitutional basis, and the King's consent to this had been obtained. But as an intelligent critic of Ger-

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many<sup>1</sup> has said: "For Prussia the Leipzig of national liberty was to prove the Jena of political liberty." Political reaction was the order of the day. As early as 1813 the eminent theological professor Schleiermacher was dismissed from his chair in Berlin for publishing a mild political article. Arndt lost his professorship at the University of Bonn, and in 1824 the republication of Fichte's Addresses was officially prohibited.<sup>2</sup> Not until he was forced to do so did Frederick William IV redeem a promise made years before by his father, to give his people a written constitution; and, when given, he did what he could to make it a failure, and when he died he left a sealed document in which he urged that at the first opportunity his successor should annul the instrument that had been forced from him.<sup>3</sup> As Dawson says: "Frederick William IV was insane in his later years, but his apologists have never claimed that he was insane when he penned this perfidious docu-

<sup>1</sup> W. H. Dawson, "What is Wrong with Germany," 72.

<sup>2</sup> In 1913 the customary academic *Feier*, commemorating the centenary of the death of Fichte was refused by the University of Berlin.

<sup>3</sup> This document was not destroyed until shortly after the accession of the present King or Kaiser.

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ment. On the contrary, the Junker party contends that it was the sanest thing he ever did." <sup>1</sup>

It is explainable and perhaps was justifiable that Fichte in his effort to arouse his countrymen from the apathy into which they had fallen, should have exaggerated the intellectual and moral qualities of his countrymen. But in the writings of Hegel we find doctrines which are not so defensible. Here we find a deliberate purpose, not simply to prove that the Germans are the standard bearers of civilization, but the development of a system of political thought which culminates in a practical deification of the State as manifested in its Prussian form of monarchical organization. Thus, in the philosophy of Hegel, not only are the German people declared to have been selected by Providence as the one people destined to lead the human race towards the goal of perfection which reason points out, but that they have, ready-made in their national State, as then monarchical organization, an exemplar of a politically perfect form of state organization, and an instrument by means of which the true conceptions of right and reason may be spread, by force if necessary, among other peoples who may be so intellectually benighted,

<sup>1</sup> *Op. cit.*, 74.

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or so obstinately minded as to refuse to receive them.

The influence of Hegel upon his own generation was tremendous. Treitschke refers to him as "the first real political personality among the German philosophers." And though his vast and abstruse metaphysical or deductive logical system no longer receives the acceptance it once had, his laudation of the genius of the German people and his apotheosis of the Prussian State have never lost their influence.

This conviction of the Germans of their national superexcellence, and as, so to speak, the bearers of the holy ark of civilization became more certain as the Germans, under Prussian leadership, saw their political strength rapidly increase and their social and industrial development advance by leaps and bounds. At the same time that their confidence in their own world mission grew greater and greater, the nature of that mission became more and more materialized, until in the writings of Treitschke overwhelming physical power, dominating military strength, was declared to be the chief garment with which the Prussian State was exhorted to clothe itself, and world dominion the end it should seek.

Bismarck gave to the Teutons the principle by which they should be guided, when, in 1862, speak-

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ing in the military committee of the Prussian Chamber of Deputies, he declared that the "questions of the time" were to be decided by "iron and blood." We have, indeed, the word of the eminent Friedrich Paulsen, in his *Zur Ethik und Politik*, that "since the sixties of the last century a new faith has sprung up, at first timidly and ashamed—belief in power and the will to power. This gave to the close of the century its special significance. . . . Political questions are questions of power."

Among contemporary historians, says Paulsen in this same work, "Treitschke has exercised the greatest influence upon the political thought of the rising generation." And every one knows the reiterated emphasis which Treitschke lays upon his definition of the State as essentially Power. Numerous statements to this effect could be quoted from his writings, but the following single one will sufficiently show his doctrine. Pointing out the fact that the State is not amenable to the rules of morality which apply among private individuals, he says: "Since the State is power, the relative importance of duties must be quite different for it and for the individual. . . . For the State, self-assertion is the greatest of the com-

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mandments; for it, this is absolutely moral. And for this reason it must be declared that of all political sins the most abominable and the most contemptible is weakness: this is, in politics, the sin against the Holy Ghost."

## CHAPTER III

### THE PRUSSIAN THEORY OF THE STATE

The preceding chapter has prepared the way for an understanding of the Prussian conception of the State.

The term "State" is here used as connoting something distinct from what is designated as "Government." A State is a group of individuals viewed as a politically organized unit, as an entity or corporate being possessing superior authority over the individuals constituting its body-politic. A government is but the machinery or complexus of organs through which this state-being formulates, expresses and enforces its will. All States are thus essentially alike. They are distinguished from one another only by the forms of governments which their several systems of constitutional law provide, by the policies which they adopt, and by the standards of right and wrong which they apply in carrying them out. Questions concerning the Prussian conception of government, which will necessarily include a consideration

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of the fundamental principles of Prussian constitutional jurisprudence, will be reserved for a later chapter. Here we shall have to deal only with the characteristic Teutonic conception of the State as a political entity.

This State doctrine stands in close and logical relation to the philosophy of history which the Germans have developed and especially to the conviction which they have come to hold regarding their own special mission in the unfolding of what Hegel would call the World Idea. For they hold that their distinctively Teutonic Kultur not only owes its being in large measure to the State, but can obtain its legitimate influence throughout the world only by means of the compelling might of its military power. This distinctive Kultur in which they take so much pride, they regard, not as the result of the strivings of individual men to attain to intellectual and spiritual enlightenment, but as the product of the politically perfect organization to whose absolute control they have surrendered themselves.

The State to the Prussian, thus has more than a merely political significance. It exists not merely to control, but to create. By its very nature its influence is regarded as rightfully extending not only

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over material matters, but to spiritual and religious interests as well. "We regard State and spirit as belonging together," says Professor Trötsch of the University of Berlin: "an old inherited instinct makes us avoid a separation in the interest of both, despite the difficulties created by the modern spiritual cleavage."

The State is thus looked to by the Germans as the indispensable means whereby their own civilization in all its forms is developed and is to operate as a healing agency throughout the world. As an indispensable agency for the realization of the purpose of Providence the State acquires more than mortal meaning. It is regarded as an entity of such an exalted superpersonal and mystical character as to warrant the attribution to it of qualities essentially divine. In result then, we find joined to the providential rights of the Teutonic peoples, a conception of the State which regards it as a divine agency, or at least as a being with mystical qualities that exempts it from ordinary rationalistic examination.

The nearest analogue to this State idea is that of the Anglicans and Roman Catholics of the Church as an entity distinct not only from the body of its adherents but from its own outward organization,

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and as the depository of truth and with the divine mission of spreading it. This conception is excellently set forth by Morley in his *Life of Gladstone* in the following words:

"To the high Anglican as to the Roman Catholic, the Church was . . . not a fabric reared by man, nor in truth any mechanical fabric at all, but a mystically appointed channel of salvation, an indispensable element in the relations between the soul of man and his Creator. To be a member of it was not to join an external association, but to become an inward partaker in ineffable and mysterious graces to which no other access lay open. Such was the Church Catholic and Apostolic as set up from the beginning, and of this immense mystery, of this saving agency, of this incommensurable spiritual force, the established Church of England was the local presence and the organ."

How nearly the Prussian conception of the State within its distinctive sphere approximates to that of the Church as thus viewed, we shall see.

At all times since first men began to speculate regarding the nature of the political institutions to whose controlling authority they have found themselves subjected, the idea of divinity has played an important part. Among primitive and uncivilized peoples all rules of conduct, whether of law or custom, obedience to which was socially demanded, were regarded as divinely decreed. Among many Oriental

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nations to this day a view substantially similar prevails. And among not only these peoples but those of Europe and of England the doctrine was for long asserted and widely held until comparatively recent times that the persons who held the reins of supreme political power were, if not themselves Gods, at least the vicegerents of God. And in the political philosophy of Democracy, also, the divine element has not been wholly absent, the doctrine being frequently declared that the voice of God is to be heard speaking in the voice of the people when authentically expressed—*vox populi, vox Dei*.

That, however, which distinguishes this State doctrine of German political philosophy from these other now discorded, divine-right theories is that it is supported by abstract and metaphysical, rather than by theological or dogmatic, principles; and that the divine or superpersonal characteristics which are dealt with are ascribed, not to the government, nor, primarily at least, to its rulers, but to that abstract and mystical entity which is termed the State, which is conceived of as employing the government and its rulers as but instrumentalities for carrying out its own ends.

In juristic philosophy it has been found conve-

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nient in all countries, in order to give formal and logical consistency to their systems of public law, to envisage or picture the State as a political person or corporation possessing and uttering a legally supreme will, and thus, in a formal and purely juristic sense, as the ultimate source of all commands that may, in technical strictness, be termed laws. But this conception, which is nothing more than a convenience of thought, and which serves only as a peg upon which to hang other juristic concepts, or as a starting point from which to attempt a logical arrangement of public-law principles, is an idea wholly different from the German doctrine which postulates the real, albeit mystical and insubstantial, existence of a State being to the commands of which, as a moral proposition, implicit obedience is due, and with ends of its own for the realization of which any and every sacrifice of individual well-being may rightfully be required.<sup>1</sup>

Professor John Dewey, in his *German Philosophy and Politics*, has shown in a convincing manner that the formalistic and purely abstract character of

<sup>1</sup> For an analysis of the purely legal idea of the State, see the author's article, "The Juristic Conception of the State," in the *American Political Science Review*, May, 1918.

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Kant's doctrine of the categorical imperative made easily possible, if it did not actually encourage, the filling in of its contents by the apodictic commands of a superpersonal State, and the justifying of any acts which were deemed to advance the interests or ends of this mystical being. That Kant went even further than this and himself argued the existence and mystical character of the State as a being raised above the plane of ordinary human existence and above the realm of the practical, if not of the pure reason, is shown by his statement that "the origin of the supreme [political] powers, from the practical point of view, is inscrutable by the people who are under its authority." In other words, he continues, "the subject should not reason too curiously as to its origin, as if the right of obedience due to it were to be doubted."<sup>1</sup> Again, of the will of this State he says:

A law which is so holy and inviolable that it is practically a crime even to cast doubt upon it, or to suspend its operation even for a moment, is represented of itself as necessarily derived from some supreme, unblamable lawgiver. And this is the meaning of the maxim, "All authority is from God," which proposition does not express the historical foundation of the civil constitution,

<sup>1</sup> *Philosophy of Law*, 174, Hastie translation.

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but an ideal of the practical reason. It may be otherwise rendered thus: "It is a duty to obey the law of the existing legislative power, be its origin what it may." Hence it follows that the supreme power in the State has only rights and no [compulsory] duties towards the subject.<sup>1</sup>

Elsewhere Kant goes so far as to see in the State a unity resulting from a trinity of powers which is obviously patterned after the triune character of the Christian God.<sup>2</sup>

In the philosophy of Hegel also, we find the State appearing as a transcendental being, essentially divine in character. "The State," he says, "is the march of God in the world; its ground or cause is the power of reason realizing itself as will. When thinking of the idea of the State we must not have in our mind any particular state or particular institution, but must rather contemplate the idea, this actual God, by itself. . . . The Idea of the State has direct actuality in the individual State."

As thus conceived, it is what we would expect when we find the State declared by Hegel to be morally supreme and able to transmute into duties to itself whatever rights might seem to belong to its subjects

<sup>1</sup> *Op. cit.*, 174.

<sup>2</sup> Cf. Duguit, *The Law and the State*, translation 46.

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as individual human beings. "The substantial unity of the State," he says, "is its own motive and absolute end. In this end freedom reaches its highest right, just as this ultimate end has a superior right over the individuals, whose first duty it is to be members of the State." The State is indeed the reality of the moral idea—"Der Staat ist die Wirklichkeit der sittlichen Idee."

The extent to which German thought, social and political as well as metaphysical, has been guided by the doctrines of Kant and Hegel is a fact which is commonplace in the history of thought. It would, therefore, be unnecessary, even could space be spared, to show how, throughout German literature of the nineteenth century, the doctrines which have been here indicated were constantly restated and reaffirmed. Especially since the outbreak of the present war have they been put forth with renewed emphasis and ardor.

We may, then, take it as a proposition regarding which there can be no dispute that German political philosophy, as academically taught and as popularly believed, asserts that every independent politically organized group can, and should, be viewed as constituting the material and phenomenal body of a

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mystical and inherently divine being whose will, when authentically expressed, may not be morally or legally questioned by those over whom it claims authority. In short, the old doctrine of the divine right of the ruler is replaced by the divine right of the State.

The next step in the German political philosophy is to draw the conclusions which logically follow from the premise of the Godhead of the State. Two corollaries immediately follow. The first of these is the one already indicted that, as transcendently supreme, no limits may be set to its authority—no resistance to its commands in reason, justified. This, it is to be again emphasized, is not the ascription to the State of a legal supremacy and absoluteness such as is predicated by the analytical jurist, but its endowment with a will whose commands may not be morally questioned. The second corollary is that the State is a being that has interests or ends of its own that can be conceived of as existing apart from and as distinct from those of its subjects whether collectively or distributively viewed.

As regards this last position, it will be remembered that in the first chapter of this volume it was pointed out that, though morality is founded upon a recognition by individuals that the interests of others than

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themselves must be regarded, and that thus all ethical rules receive a social content, it nevertheless remains true that the individual is morally obligated to seek that which his reason tells him is his own best good. In other words he seeks a self-perfection, but the ideal which he thus sets to himself involves a recognition of, and a respect for, the interests of other persons who, like himself, have a right to seek their own best good.

Upon premises such as these the moral obligation of social service, of self-sacrifice to the welfare of the social group, and of allegiance and obedience to the State are founded. But these duties are wholly founded upon a regard for the welfare of the individuals who constitute the State, or, if the still broader view be taken, who constitute the units of humanity. According to this view the maintenance of the State and obedience to its laws are looked upon merely as the means whereby the true welfare of its citizens or the welfare of the race may be promoted. Apart from this purpose States and their governments have no claim upon the obedience or self-sacrifice of the individual. In German political philosophy, however, the State is viewed as a divine or mystical person whose welfare is to be sought as an end in itself.

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Even when the German political philosopher so far descends from the peaks of pure reason as to consider political rule as a means of promoting human welfare, he takes care to preserve for it an absolute character. A certain form of it, namely as a National State, is declared to be the only perfect type, and as thus manifested to men it is affirmed to be the indispensable means, the only rationally conceivable means, by which humanity may reach the ends which reason holds out as desirable of attainment. So strongly is this absolute doctrine stated that we find it asserted that it would be against reason and right to seek to substitute a World-State in place of a number of disparate National States. Even the establishment of institutions or rules that would place a restraint upon the freedom of action of these independent state persons in the international field, it is declared, would be in violation of their intrinsic rights. "The establishment of an international court of arbitration as a permanent institution," Treitschke declares, "is irreconcilable with the nature of the State." Not, it will be observed, because of results to which it might lead, but because it is irreconcilable with the inherent nature of the independent National State as he conceives it to be. In another place

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he declares that it is only when the State is given the opportunity to contest with other States and to impose its will upon theirs that the opportunity is offered, the *milieu* provided, for the realization by the State of the destiny which its inherent nature points out.

We thus again arrive, as from a new angle, at the proposition that no moral obligations unite States into a moral whole. Each is an end to itself; no place is left for self-restraint or self-sacrifice when its interests are concerned; no logical possibility presented for cultivating abiding friendship and coöperative efforts between States. International laws can find no moral force in the consciences of those whose actions they would regulate. The most solemnly covenanted word remains binding upon the State only so long as expediency seems to dictate. No appeal to an interest higher than its own selfish welfare is held legitimate. Whether dealing with other peoples or with its own subjects, the final word, legally as well as morally, is the declaration of the State—*sic polo, sic jubeo, sit pro ratione voluntas.*

## CHAPTER IV

### THE PRUSSIAN THEORY OF MONARCHY

At the beginning of the preceding chapter it was pointed out that political scientists make a sharp distinction between the terms "State" and "Government," a State designating an independent political group viewed as a corporate unit, and juristically spoken of as a person expressing its will in the form of laws or commands addressed to those over whom it claims legal authority; and Government being the name given to the machinery or aggregate of instrumentalities through which the State formulates, expresses, and enforces its will. In the chapter which has gone before there was analyzed the mystical conception of the State, framed by the Teutons, as a real, though mystical, superpersonal being with ends of its own to subserve.

In the present chapter we shall deal with the Prussian conception of Government and be concerned with questions quite different from those which we have thus far discussed.

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The fundamental questions of political philosophy in their relation to Government are these:

1. Is there any one form of government which can be said to be abstractly or inherently preferable to other forms, that is, when divorced from special conditions of time, place, and people; or are the merits of all forms of political rule relative to the conditions to which they are to be applied?

2. Upon whose judgment, as an ethical proposition, should the decision rest as to the form of government that shall exist? Since all governments are of human creation and subject to human control this is a question the answering of which cannot be avoided.

3. Whence, as an ethical proposition, do those who determine and execute the policies of a government derive their right to rule? And closely connected with this is the question:

4. From what source, as a legal proposition, is derived the force of the constitutional laws which allot the powers of government among its several organs or officials? This last question falls rather within the field of constitutional jurisprudence than of pure political theory, but, of so fundamental a character is it, it must be considered if an understanding is to

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be obtained of the general attitude of mind of a people towards the government which rules them.

The answers which Prussian political and juristic thought give to these questions will be considered in the order as above stated. First, then as to whether Prussians ascribe to the monarchical form of government an inherent or absolute character that raises it, in intrinsic merit, above other forms of government; or whether they regard it purely from the practical or pragmatic point of view.

As long as theological and political speculations remained intermixed, or, as long as it was held that by pure reason, apart from divinely revealed truth, rules of human conduct of an absolutely binding character, *sempre et ubique* applicable, might be determined, it was possible to hold that there is one form of government which is especially favored of God or intrinsically better than all others; and to monarchy, as a rule, was ascribed this perfection. Texts of Scripture were quoted to show that this form of rule had the direct sanction of God, or, relying simply upon what was termed "right reason," it was pointed out that from the very nature of things, as well as by analogy with the Kingship of God himself, and the fact that all living creatures have and must

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have one supreme directing head, it was argued that the monarchical form of government is foreordained as the only justifiable form of political rule. Writers like Robert Filmer as late as the seventeenth century argued that the authority of Kings is rightfully possessed by inheritance from the powers originally given by God to Adam. And that his *Patriarcha* was not a mere curiosity of thought that could carry no weight is shown by the fact that Locke thought it necessary to devote a large part of his *First Treatise of Government* to its refutation.

But the deathblow to absolutist or theological reasoning in the field of politics was really given in the writings of Machiavelli, and especially in his *Prince*. However much one may disagree with the proposition of the Florentine that the rules of morality find no proper application in matters of State, to him must be given the credit of bringing to bear upon politics the application of rationalistic and practical principles. If, then, there still exist any writers or peoples who ascribe an abstract and absolute excellence to monarchy, apart from the objective conditions to which it applies or the practical results to which its maintenance leads, it is an anachronism and stands outside of modern scientific thought.

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It would be absurd to assert that German publicists do not admit, as a general proposition, that special circumstances should determine the kind of government that a people should possess. We do certainly find, however, the statement frequently made, and still more often the implication conveyed, that, for the Germans at least, the matter is absolutely determined in favor of a strong monarchy. This, as we shall later see, involves the proposition that there is no right inherent in the governed to decide upon the form of government to whose commands they are to yield obedience. It is also, of course, indissolubly connected with the acceptance of the claims of the Hohenzollerns to a personal right to the Prussian throne. And there is also present the conviction that the Teutons are, by very nature, monastically minded, and furthermore, that only by means of monarchy can that Kultur, upon which they pride themselves, be maintained and spread throughout the world. The maintenance of monarchy is thus regarded as involved in the performance of the world-civilizing mission of the Germans. Finally, there is found the strong conviction that, as a purely practical proposition, the problem of efficient government is one that under most circumstances can best

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be solved when strong monarchical direction and control is provided, and that, such is the special situation of the German States with reference to their neighbors, it is for them indispensable.

In so far as Germans give their preference to monarchical forms of government, upon these last mentioned pragmatic grounds, no logical objection can be raised. We may think that in making this choice the comparative merits and defects of popular and autocratic rule are not correctly estimated. But the method of reasoning is not a false one. Thus, for example, no objection, as to logical method, can be made to the argument of Professor Trötsch of the University of Berlin when he says:

Only under monarchical leadership can the work of unity and development of a nation encompassed by danger be accomplished. All European nations have achieved their unity by means of monarchy. The exceptional case of the United States proves nothing to the contrary, since in this instance the question was one of development without the presence of neighboring States. The French Republic is only a translation into republican form of that which the Bourbon and Napoleonic monarchies had created.<sup>1</sup>

Prussian publicists are not content, however, to justify the maintenance of monarchy solely upon

<sup>1</sup> *Modern Germany in Relation to the Great War*, p. 70.

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these purely practical grounds, but, as has been already suggested, introduce into their argument premises which place the institution upon a plane where it becomes invested with an absolute value and sacrosanctity that makes it an impiety to question its right to be. This becomes evident when we proceed to examine the answers given to the questions: From what source should spring the decision as to the form of government which a people is to possess? And by what right are those who are in public authority to be deemed to hold their offices? To the first of these two questions we now turn.

In granting that monarchy may be practically justified as an institution for the Prussians, or for the German States generally, we are, of course, not committed to the acceptance of any propositions which the Prussians may hold regarding the location of the right to determine its existence nor as to the origin of the right of particular persons or families to the throne, nor as to the autocratic powers that may wisely be left in the hands of the sovereign ruler.

American political philosophy as well as that of her Allies in the present war, with the exception of Japan, is committed to the doctrine stated in the opening chapter of this volume, that the governed,

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acting through an electorate that is as broad as is practicable, should, under all forms of government, be conceded the right, and be supplied with orderly constitutional means, to determine whether they wish to maintain the existing form of government; or, as the Declaration of Independence says: "to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

This doctrine, as an ethical proposition, Prussian political philosophy does not admit. The Prussians have never been granted, or effectively asserted, the right to determine the form of government to whose commands they are subjected. It is, indeed, noteworthy that during the revolutionary period in 1848, and in the debates of the Frankfort Convention the aim was to obtain a government that should be constitutionally limited, and to secure the recognition of civil rights of person and property, rather than for the people to take the control of government into their own hands and found it, ethically as well as legally, upon the consent of the governed. At any rate, whatever assertions of popular sovereignty may then have been made proved of no avail, and since

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that time have played no appreciable part in German political thought save in the premises of the Social Democrats.

In truth, German publicists are only logical when they deny that the wishes of the governed should determine the form of government of the State, for if, as they assert, the State does not exist primarily for the welfare of the governed, why should their consent be sought? Hegel contemptuously refers to the people as that part of the State which does not know what it wants. Professor Tröeltsch, of the University of Berlin, in a paper published since the war began, speaks with approval of the fact that German writers have "opposed the democratic fiction that the State is an institution created by the individuals for their own security and happiness."<sup>1</sup> And in the same volume of essays in which this commentary is made, Professor Otto Hintze, also of the University of Berlin, speaking of the Prussian system of rule, says:

It is a form of government which does not seek primarily the comfort and happiness of the individual, but rather the power and greatness of the State, since without the

<sup>1</sup> "The Spirit of German Kultur," in the volume entitled "*Modern Germany in Relation to the Great War*," published in 1915.

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latter general prosperity cannot be secure. This system, which has made the relatively large standing army the backbone of a central administration, that takes cognizance of every man and every penny, that teaches self-denial, order and conscientiousness in civil as well as military life, and that has accustomed its citizens rather to fulfill their political duties than to aim at the increase of their political rights. . . . It opposes a transformation that would place the government in the hands of changing majorities and subject the army to corrupt parliamentary influences—a statement true not only of Prussia but of entire Germany.

Hunt

The paragraph is an illuminating one. In it we obtain an accurate view of the dominant Teutonic conviction as to the relation that exists between the welfare of the State and the welfare of its people. "Seek ye first the Kingdom of the Hohenzollerns," the people are told, and take it as a matter of faith that, despite the sacrifices that may have to be made, all will ultimately be for your best good. Do not ask for a participation in your own government, because that will weaken the executive power of the State, to weaken which, as Treitschke has said, is the crime of political crimes, the sin against the Holy Ghost.

In result, then, the Prussian people are taught, and have very generally come to believe, that, viewed

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metaphysically, the affairs of this world are so ordered that it is irrational for them to demand the right to determine for themselves the form of government to whose control they shall submit, or to claim a participation in its operation.

\* *The German Conception of Freedom.*—Thus the German people have come to feel that they are free so long as they have the liberty to exercise their faculty for abstract reasoning. And, by a remarkable intellectual feat, they have come to believe that this reason tells them that they do not need to keep their institutions of learning free from political influence. Thus, though they reserve to themselves what they call inward or rational freedom, they surrender control of the school and universities which tell them what this reason teaches. Their writers sometimes lay stress upon the point that private citizens participate actively in local governments, but the status and powers of these governments are fixed by the central government in which they are taught to believe they have no ethical or rational right to control. “We understand . . . by self government,” says the eminent Professor Gustav von Schmoller, “the administration of the municipalities and other communal units by citizens themselves, with more

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or less independence as regards the state authorities and officials."<sup>1</sup> But this independence, even if more rather than less, relates to matters only of local concern, that is, to matters of business methods and administration, and has no relation to the general political policies of the State itself.

Perhaps this conception of freedom can be made plainer if we say that the Germans have come to attach such a high value to order, unity, and system, that they look askance at the variety and, to them, disorder, that results where freer play to individual interests and desires is allowed. In other words, the typical German is content to have his life minutely regulated if he can feel himself secured from the interference or annoyance of the unregulated actions of others.

Let me again quote from the volume of essays, published since the war began, in which some of the best known university professors attempted in a sober and scientific manner to interpret German ideals to the rest of the world. In his essay entitled "The Spirit of German Kultur," Professor Tröltzsch says:

<sup>1</sup> "The Origin and Nature of German Institutions," included in the collection of essays published in 1915 under the title *Deutschland und der Weltkrieg*. The English translation bears the title *Modern Germany in Relation to the Great War*.

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See

It accords with a strong monarchy, such as we require, that its hand should be felt everywhere, both in great and little things. Personal freedom and human dignity do not suffer thereby in the least. While public servants are placed in a safer and more independent position, owing to the rights guaranteed to them by the laws, than in democracies, the average citizen experiences absolutely no repression through the monarchy. . . . We at any rate, consider ourselves in many respects freer and more independent than the citizens of great democracies.

And several pages later on, he continues:

All the things here mentioned—monarchy, army, school, administration and economy—rest upon an extraordinary instinct for order, combined with stern discipline and an earnest sense of duty. . . . Order and duty, solidarity and discipline, are the watchwords of our officialdom, of associations and corporations, of large and small business concerns, of our labor unions, and of the great social insurance undertakings. Method and system are the principles of scientific work and technical arts, of education and social legislation.

The dominating influence of regulation and order, Professor Tröltzsch says, is evident even in aesthetic arts, for he continues:

Even free artistic temperament and imagination do not move only in the sphere of inspiration and mood, but seek, precisely in the case of our greatest men, to take their place in the general psychic development in the cosmic conception and in the scheme of moral achievement. No

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examples need be mentioned, for this is the characteristic trait of the German which strikes strangers first of all.

Professor Santayana, of Harvard University, has recently described this German conception of Freedom in the following manner:

It does not refer to any possibility of choice or to any private initiative. It means rather that sense of freedom which we acquire when we do gladly and well what we have to do anyhow. . . . [It] is like the freedom of the angels in Heaven who see the face of God and cannot sin. It lies in such a deep love and understanding of what is actually established that you would not have it otherwise; you appropriate and bless it all and feel it to be the providential expression of your own spirit. You are enlarged by sympathy with your work, your country and the universe, until you are no longer conscious of the least distinction between the Creator, the State and yourself. Your compulsory service then becomes perfect freedom.<sup>1</sup>

Having ascribed at least a quasi-divinity to the State, and with such a philosophical conception of freedom as this, it becomes clear how a people who justly pride themselves upon an intellectual development that extends throughout the whole community, could yet content themselves with surrendering control over not only the details of their everyday life, but the broad domestic and international policies of

<sup>1</sup> *The New Republic*, August 28, 1915.

How many individuals are already concerned in the first problem? How will

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their government. Step by step, the argument proceeds: The State is a divine being, or, if metaphysical be preferred to theological terminology, it is a mystical entity in which the unity of a people, as a subjective idea of Reason, becomes objectively Real. In either case, power in the greatest possible amount is of the essence of this State Being. The exercise of this power is vested in the executive. Restraints upon the free exercise of this executive power operate to lessen its effectiveness and therefore cannot be justified. A division of it necessarily weakens it, and, therefore, a strong monarchy is the best type of government.<sup>1</sup>

We reach now the third fundamental question to be considered when analyzing the nature of any given government, namely, as to source of the right whence is derived the ethical right of those in political authority to hold the reins of power. Granting the right of monarchy to exist, or conceding its practical value to the Prussians, there remains to be deter-

<sup>1</sup> "Since the State is primarily power, that State which gathers authority most completely into the hand of one and there leaves it most independent, approaches most nearly to the ideal." Treitschke, *Politics*, I. 13.

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mined the grounds upon which the King claims his ethical right to possession of the throne—a right which, since 1871, has carried with it, *ex officio*, the title and office of German Emperor.

If we review the history of monarchical theories we find that rulers have regarded their thrones as belonging to them upon the following grounds:

1. As being themselves, if not actually Gods, at least directly endowed with divine attributes.
2. As being the absolute owners of the lands and peoples over whom they rule.
3. As being the agents or vicegerents of God, and responsible only to Him for the manner in which they exercise their powers.
4. As being but one of the organs or agencies of the government and deriving political authority from the source whence that government itself obtains its moral or legal right to existence.

According to any one of the first three theories, the monarch assumes to rule by an original right personally inherent in himself. According to the fourth theory, his right to rule is derived from a source outside of himself—he acts as an agent and not as a principal.

In the light of which of these four theories of

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monarchy does the present King of Prussia interpret his status and powers?

As regards his Emperorship there is no question that he conceives his status to be a wholly constitutional one, the origin and definition of his imperial powers being in the constitution to which the governments of the States of the Empire have given their consent. So long, however, as the office of German Emperor is attached to that of the Prussian King, the important point to the Empire, as well as to the people of Prussia, is the right by which the royal power is held.

It does not need to be said that the Prussian King does not regard himself as a divine being in the sense in which oriental potentates have been wont to consider themselves, or as was involved in the deification of the Roman Cæsars during the later imperial period. No statement has been attributed to Wilhelm that would indicate that he so regards himself, and certainly this belief has no currency among his people.

Is there any evidence that the King or his subjects accept the view that the throne is held in fee simple as a piece of private property?

During the sixteenth, seventeenth, and eighteenth

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centuries, when absolute monarchy was the prevailing governmental type in Europe, the principle was very generally held by rulers, and acted upon, that the people of a State, together with their lands and other goods and chattels, in a very real sense belonged to the King and constituted his *patrimonium*—they were his personal property to do with as he might see fit.

Thrones were bought and sold, acquired by marriage or inheritance, and disposed of by last will and testament; and the hapless inhabitants themselves were disposed of and even sold to foreign rulers with no regard to their own desires or welfare.

In his *Four Georges*, Thackeray tells us how the Duke of Hanover sold to the seignory of Venice sixty-seven hundred of his subjects of whom only fourteen hundred ever saw their homes again, the proceeds of the sale being devoted to the satisfaction of the royal duke's sensual pleasures. "Round all that royal splendor," writes Thackeray, "lies a nation enslaved and ruined: there are people robbed of their rights—communities laid waste—faith, justice, commerce trampled upon, and well-nigh destroyed—nay, in the very center of royalty itself, what horrible stains of meanness, crime and shame! It is but to

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a silly harlot that some of the noblest gentlemen and some of the proudest women in the world are bowing down; it is the price of a miserable province that the King ties in diamonds round his mistress' white neck. In the first half of the last [eighteenth] century, I say, *this is going on all over Europe.*"

That this patrimonial view should have prevailed, is historically explainable. The entire feudal system, out of which the modern monarchy had evolved, was founded upon the idea that the ownership of land carried with it, as one of its incidents, the right of political rulership. When, then, by a process of development, the king had obtained a supremacy over his feudal lords, when his "peace" had become higher than theirs, and had extended over the whole country, and when these lords and those who in turn held of them, were forced to concede that they held their lands by a conditional grant from the king, their liege lord, the idea that the monarch was the owner of the entire realm was complete. In him lay the final legal title to all land. All other persons had "tenures" rather than rights of ownership. And, as for the people themselves, the idea that one person might be another person's "man" or "woman" was universal.

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Thus the entire feudal system was founded upon doctrines that made very little distinction between public and private law, and which started with the proposition that ownership, and right to political jurisdiction, are complementary ideas.

It is, however, to be observed, that the application of the patrimonial idea to political rulership, did not necessarily carry with it the doctrine that the monarch, in his dealings with his subjects, was outside the realm of ordinary morality, that is, freed from the moral restraints which humanity and sympathy impose. The theory, however, left it to the monarch himself to determine in specific instances what these ethical considerations might prescribe or whether they should be heeded at all. In any case there were no legal restraints, and the moral obligations resting upon the ruler to seek the welfare of the ruled were those of generosity and charity, rather than of justice implying the existence of rights which should be regarded.

Even as thus qualified, the patrimonial conception of Kingship now seems so irrational and inhuman that we have difficulty in persuading ourselves that it was once so widely held. And yet, when we regard the matter closely it will be seen that, after all,

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it is not essentially dissimilar to that held at the present time by those possessors of private property who regard the institution of private property as devoid of all social connotations, and look upon themselves as vested with rights of use and disposition the free exercise of which should not be interfered with. Thus, as we know, there are at the present time owners of large fortunes the possession of which has come to them by accident of inheritance, by the favoring operation of law, by the working out of economic forces, or by the merest chance, involving little if any desert upon their own part, and who yet feel themselves free to use their wealth as they see fit, for their own selfish welfare if they so desire, and, as employers of labor, consider that those who work for them have no moral claim, and certainly no legal claim, beyond such as is founded upon their contracts of employment—that in other words, anything beyond this that they, the owners and employers, may do for the benefit of those subject to their economic rule, is an act of charity or generosity rather than an obligation of distributive justice. This is a view, happily becoming rapidly less often held, but it is still sufficiently in evidence to make us understand how, before the *éclaircissement* of the eighteenth cen-

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tury and the spread of democratic ideas in the field of political thought, the patrimonial conception of Kingship could have found so general acceptance and application.

When this idea disappeared in Germany it is difficult to say, but certainly not until well into the nineteenth century. We know that serfdom, and with it the idea that one person might belong to another person, persisted until that time, and, so long as this was so, it is not probable that the traditional patrimonial conception of Kingship was wholly abandoned.

Frederick the Great gave to Prussia its first decisive start towards political power. That he diligently sought to increase the prestige and standing of his country among the nations of Europe, and to this end was willing to make almost any personal sacrifice, is well known. He it was, indeed, who first described himself as the first servant of the State—*Der erste Dienst des Staates*. It is clear, therefore, that he did not look upon his people as mere chattels to be used for his own selfish purposes.

And yet it quite plainly appears that Frederick had at heart not so much the real happiness and true interests of his people as he did the power and

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prestige of Prussia as a political being. That the wars which he waged would mean suffering and loss of life to his own subjects, and that they, individually, would derive no benefits from his conquests did not deter him from making war. Nowhere in his voluminous writings, nor in his reported utterances, have we evidence that even the suggestion occurred to him that his people had any right to determine what their political destinies should be, under what form of government they should live, or by whom they should be ruled.

Frederick lived before the time of the French Revolution, and not yet had there become articulate these demands of the people. Kings regarded their right to rule as something that needed no argument. If we can conceive of Frederick as considering the matter with himself, we may believe that he held himself providentially or divinely placed upon the throne. As is more likely, however, he viewed the question as having no religious or ethical bearings. We know that he held that rules of morality have no application to matters of State, and it is therefore but reasonable to believe that he regarded the fact that he was King as its own justification, or rather as needing no justification.

*What they believed + what they  
asserted - may have been + etc.  
think*

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The successors of Frederick, however, were not all such rationalists as he; and we know that some of them, including Frederick William IV and William I took pains to assert that they derived from God their right to rule.

If, however, as of greater present interest, we turn to the theories of the reigning King we are left in little doubt as to the view he takes of his royal rights. Their divinely derived character he has, upon almost every possible occasion, taken care to assert.

In Berlin, on February 20, 1891, he said:

"You know that I regard my whole position and my mission as one entrusted to me by God, and that I am called upon to execute the mandates of a Higher Being to whom I shall hereafter have to render account.

In a speech delivered August 25, 1910, he said:

Here [in Königsberg] my grandfather again, by his own right, set the Prussian crown upon his head, once more distinctly emphasizing the fact that it was accorded to him by the will of God alone . . . and that he looked upon himself as the chosen instrument of heaven. . . . Looking upon myself as the instrument of the Lord, without regard to the opinions and intentions of the day, I go my way.

In his proclamation to the Army of the East, in 1914, the Kaiser said:

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The spirit of the Lord has descended upon me because I am the Emperor of the Germans. I am the instrument of the Almighty, I am his sword, his agent. Woe and death to those who shall oppose my will. Woe and death to those who do not believe in my mission. Let them perish, all the enemies of the German people! God demands their destruction, God who, by my mouth, bids you to do His will.

The divine right which Wilhelm thus claims he has upon several occasions taken pains to defend as belonging to him as the head of the Hohenzollern family. In Bremen, on April 21, 1890, he said:

The fact that we have been able to achieve what has been achieved is primarily due to the fact that in our House the tradition prevails that we regard ourselves as appointed by God, to reign over the peoples whom we have been called to rule, and to guide them in accordance with their welfare and the furtherance of their material and spiritual interests.

Upon another occasion he said:

Each of the Hohenzollern princes was from the outset of his career conscious that he was only God's vicegerent upon earth, that he would have to render an account of his work to a higher King and Master, and that he must faithfully perform the work appointed by the Almighty to do.

It would appear from these and other utterances of his majesty, that he believes that the Hohenzollern

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family has been selected from among the other members of the human race as instruments of divine providence to rule the Germans, just as he also believes, and has frequently asserted, that the Germans have been selected out from among the other races of mankind to spread Kultur and political salvation to the remainder of the world. Thus he, Wilhelm, evidently believes that he gains his personal individual right to rule because he is a Hohenzollern, and the heir to the throne of his ancestors, as marked out by the rules of hereditary descent that prevail in his family. And this, of course means, logically, that this particular method of reckoning descent has direct divine approval. For the marks or criteria which apodictically indicate that the Hohenzollern family have this divine mission, there is no firmer foundation advanced than the fact that the course of history has so indicated.

The fact is, however, that in none of his utterances does there appear a trace of the old patrimonial idea of Kingship. Wilhelm regards himself as a trustee, divinely appointed, rather than as an owner of Prussia and its people.

To just what extent the divine right doctrine of

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the monarchy, and of the Hohenzollern family to the throne of Prussia, prevails generally in Prussia it is difficult to say. Certain it is that it finds no emphatic support in the writings of the present-day German political philosophers and constitutional jurists; and yet, upon the other hand, we find practically no formal adverse criticisms of it. This remarkable silence upon this point would possibly indicate that the scientific mind is not able to accept it, but that for prudential or other reasons it is thought best not to criticize it.

As possibly throwing some light upon this professional reticence is the incident referred to by Mr. Dawson, a well-known authority on conditions in Germany.

In 1902 [he says] the Breslau Professor of Jurisprudence, Dr. W. Schücking, in the course of a lecture on the question whether the succession to the throne could be regulated by law, remarked that he would "pass over the doctrine of monarchy by God's grace as being a non-juristic question." He was denounced by a hearer—a fact which tells its own tale—in a Berlin conservative newspaper, and soon after received a warning from the Minister of Education containing the reminder that "he might teach what he wished, but he must always reckon with the possibility of his services being no longer required." Later interferences with his liberty led this inde-

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pendent-minded teacher to leave Prussia for one of the more tolerant German States.<sup>1</sup>

The most specific discussion that I have found upon the Kaiser's claim to divine right is that of Dr. Otto Hintze, Professor of History of the University of Berlin. Writing since the beginning of the war, he denies that the German people now accept such exalted conceptions as those, for example, of Frederick William IV. In criticizing the utterances of the present Kaiser, he says that they are without significance from the standpoint of constitutional law—which no one that I know has ever asserted—and then gives the following interpretation of what is believed upon this point. "Our rulers," Professor Hintze says, "declare themselves to be such 'by the Grace of God.' The meaning of this characterization from the viewpoint of political law is simply that the royal power was not granted by the people, but that it exists upon ancient, historical right that has grown and refined coincident with our history, thus proceeding from a combination of factors which piety may be inclined to ascribe to a higher dispensation."<sup>2</sup>

<sup>1</sup> Dawson, "What Is Wrong with Germany?" p. 64.

<sup>2</sup> Treitschke, in his *Politics* (I, 58) says: "The claim to rule 'by the grace of God' is no more than a devout aspiration

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If this be a fair statement of the scientific position, as held in the higher institutions of learning, we may have little doubt that when we descend to popular opinion the opinion is general, except of course among the Social Democrats—a very considerable, but as yet politically uncontrolling exception—that the King does rule by a divine delegation of authority.

One thing is clear. The claim by the King that the right to rule comes to him as from God, and with responsibility for its exercise only to Him, neces-

which does not attempt to formulate a mystical and spiritual right to power, but simply to assert that the inscrutable will of Providence has decreed the elevation of a particular family above its rivals. Piety is a fundamental requirement in a monarch, since the notion that he stands immeasurably above all other men may actually unsettle his reason, if it be not balanced by personal humility which compels him to acknowledge himself God's instrument. All this does not abrogate the axiom that it is the nature and aim of monarchy to be of this world. Genuine monarchy does not aspire to partnership with the Almighty. On the other hand, monarchy stands opposed to republicanism. In a republic authority is founded upon the will of the governed, while in a monarchy it is derived from the historical claim of a particular family, and concentrated in the will of one man who wears the crown, and who, though surrounded by more or less responsible advisers, ultimately decides every question himself."/>

The recognition by Treitschke of the Providential element of course gives to monarchy and to the reigning family a suprarational or transcendental basis of right.

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sarily carries with it a denial that his people have an inherent, or natural, or ethical right to determine either the form of government under which they are to live or who shall be in supreme direction of it. As a matter of logic it also follows that they have no right of their own to dictate to their monarch the policies he shall adopt, or the manner in which or the forms through which they shall be executed. There is not excluded, however, the idea that he may, as a matter of personal grace, moved thereto by dictates of expediency, grant to the governed the privilege of making known through their elected representatives their opinion as to what action upon his part their own welfare demands. But that they should be permitted to issue a *mandat impératif* to him is made logically impossible.

## CHAPTER V

### PRUSSIAN CONSTITUTIONAL THEORY

In republics the principle is fundamental that all powers of the government are derived by grant from the people. This principle, though not essential to, is nevertheless not inconsistent with, the maintenance of monarchical rule. It is inconsistent only with the doctrine that the King rules by reason of an original personal right, and that he possesses other than delegated powers.

That all public authority is derived from the people is accepted in the constitutional system of Belgium, its constitution, dating from 1831, declaring that "all powers emanate from the people," and are to "be exercised in the manner established by the constitution." Care is also taken to provide that the executive powers vested in the King shall be "subject to the regulations of the constitution."

In Great Britain, if we have regard only to legal theory as distinct from actual practice, the Crown is viewed as the organ of government in which sover-

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eignty inheres. It will be observed that the term "Crown" is here used as the name of an office or organ of the government and not the term "King" or "Monarch"; for, since 1688, the constitutional principle has been established that the people through their representatives in Parliament may determine who shall be entitled to occupy the throne. Thus King George of England lays no claim to other than a parliamentary title. And, furthermore, it is recognized as a matter of constitutional practice that the representatives of the people may withdraw from the Crown any of the independent or so-called prerogative rights which it still has, and that, even as to the rights still retained, they must in every case, in practice, be exercised at the direction of the King's Ministers, who are held politically responsible to Parliament for the directions which they may give.

In effect, then, so far as the substance is concerned, the government of Great Britain is as subject to the popular will as are the governments of the republics of France and the United States. There are, indeed, not a few who assert that through the operation of her system of cabinet control the British government is more responsive to the will of the people than is the government of the United States.

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In Italy also the parliamentary system has developed which brings the control of the acts of the King under the control of his Ministers, who are responsible to the elected representatives of the people.

In sharp contrast, as regards both constitutional theory and constitutional practice, stands the monarchical systems of the States of Germany,<sup>1</sup> and especially that of Prussia. In accordance with the conceptions which have been discussed in the preceding chapter, these systems of constitutional jurisprudence have been built up. The Prussian government is a constitutional government in the sense that the jurisdiction of its various organs and officials, including the King, are legally defined and the individual protected against official acts for which no legal warrant exists. Upon this score no reproach lies against the Prussian monarchy. It may indeed be true that the control exercised by the government over the lives of its subjects is a rigorous and paternalistic one, and that there is no sphere of individual liberty constitutionally secured against governmental invasion, such as exists in the United States, but *ultra vires* or otherwise illegal or purely arbitrary

<sup>1</sup> Excepting of course the "free cities" of Lübeck, Bremen and Hamburg.

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acts upon the part of public officials is as little and perhaps less known in Prussia than in our own country. Prussia's government is one of law and not of unregulated individual caprice.

The Prussian King, then, governs in accordance with methods prescribed by the Constitution, and this means that he may promulgate as laws only those measures which have received the approval of his legislature, one branch of which is selected by a more or less numerous electorate to represent the wishes and interests of the people. None the less, as a constitutional principle, in accordance with his claim of personal right to the throne, he is regarded as the sole fountain and source of all law and political authority, and the sole bearer and exerciser of the sovereignty of the State, notwithstanding the fact that he may, by the grant of a written constitution, have posited for himself certain forms in conformity with which his powers are to be exercised, and agreed that in the determination of certain policies he will take no action without the approval of a majority of representatives who are elected by the people, or at least, by a certain fairly large part of them. The written constitution of Prussia in which this undertaking is embodied, may have been, as a matter of practical

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fact, extorted from the King by popular pressure; but, legally viewed, it is an emanation from his sovereign will. It is granted or "octroyed" by him, and not established by the people; and this is shown by its phraseology, the preamble beginning with the words, "We, Frederick William, by the Grace of God, King of Prussia, etc., hereby declare and make known, etc."

That since, as well as before, the granting of the constitution, the King remains the embodiment of sovereign power, is the consensus of German jurists. "He possesses the whole and undivided power of the State in all its plenitude," says Schulze in his *Preussisches Staatsrecht*. "It would therefore be contrary to the nature of the monarchical constitutional law of Germany," he continues, "to enumerate all individual powers of the King, or to speak of royal prerogative. . . . His sovereign right embraces, on the contrary, all branches of the government. Everything which is decided or carried out in the State takes place in the name of the King. He is the personified power of the State."

To the same effect is the statement of von Rönne in his standard treatise on *Preussisches Staatsrecht*. "As in constitutional monarchies in general," he says,

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"so in the Prussian State, the right of the supreme direction of the State belongs exclusively to the King as its head, and no act of government may be performed without his assent or against his will. All the prerogatives of the State are united in his person, and his will is supreme, the officials being only organs through which he acts. The constitution, it is true, does not expressly set forth these principles, but they have been already legally formulated in the Prussian law, and are, moreover, a necessary consequence resulting from the very nature of monarchy."<sup>1</sup>

Especially significant also, is the statement of the Constitution itself (Article 108) that "a swearing-in of the army upon the Constitution does not take place." The army's allegiance, in other words, is directly to the King. And even in the Constitution of the Empire, it is provided that "soldiers shall render unconditional obedience to the orders of the Emperor." (Article 64.)

It will be noted that both Schulze and von Rönne

<sup>1</sup>These two passages are quoted by Professor Harvey L. Robinson in the historical and analytical note prefixed to his translation of the Prussian Constitution, published as a supplement to the September, 1894, issue of the *Annals of the American Academy of Political and Social Science*.

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say that a limitation of the sovereign powers of the King would be contrary to the very idea of monarchy as it is held in Germany. This is in agreement with the doctrine of Kant metaphysically arrived at. In his "Philosophy of Law," he declares that the very nature of government is such that the executive function of the supreme ruler should be regarded as irresistible. He denies that resistance to royal oppression is ever justified. "If," he says, "the ruler or regent as the organ of the supreme power proceeds in violation of the laws . . . the subject can interpose complaints and objections to this injustice, but not active resistance" (p. 175). And a little later on he says: "There cannot even be an article contained in the political constitution that would make it possible for a power in that State, in case of transgression of the constitutional laws by the supreme authority, to resist or even to restrict it in any way." Thus we find it stated not merely as an advisable principle of constitutional law that the King should be above the law, but as metaphysically involved in the very idea of political rule.

In truth, it is to be remembered that a written constitution has not in German public law that supremacy over ordinary statute law which is ascribed

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to it by American constitutional jurists, and in this respect the German theory has tended during the last fifty years to become increasingly pronounced. The leading commentator upon German constitutional law is undoubtedly Dr. Paul Laband. In his *Staatsrecht des deutschen Reichs*, he writes as follows:

“There is no will in the state superior to that of the sovereign, and it is from this will that both the constitution and laws draw their binding force. The constitution is not a mystical power hovering above the state; but, like every other law, it is an act of its will, subject, accordingly, to the consequences of changes in the latter. A document may, it is true, prescribe that the constitution may not be altered indirectly (that is to say, by laws affecting its content), that it may be altered only directly by laws modifying the text itself. But when such a restriction is not established by positive rule, it cannot be derived by implication from the legal character of the constitution and from an essential difference between the constitution and ordinary laws. The doctrine that individual laws ought always to be in harmony with the constitution, and that they must not be incompatible with it, is simply a postulate of legislative

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practice. It is not a legal axiom. Although it appears desirable that the system of public and private laws established by statute shall not be in contradiction with the text of the constitution, the existence of such a contradiction is possible in fact and admissible in law, as a divergence between the penal, commercial, or civil code and a subsequent special law is possible.”<sup>1</sup>

If one wishes to see how far apart our own constitutional theory is from that of the Germans, one may compare with these views of Laband the words of Chief Justice Marshall delivered in the famous case of *Marbury v. Madison*, in 1803, in which he fixed once for all in our jurisprudence the doctrine that no measure enacted even by Congress itself will receive judicial recognition or enforcement if its substance cannot be harmonized with the provisions of our national constitution.

It follows from the Prussian constitutional conception that the part played by the elected representatives of the people in the enactment of laws and in the adoption of public policies is one quite different from that which is played in countries whose consti-

<sup>1</sup> Quoted by Borgeaud—*Adoption and Amendment of Constitutions* (Eng. trans.), 68.

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tutional systems are founded upon a democratic basis. According to the doctrine almost, if not quite, unanimously held by German jurists, the people through their representatives participate, not in the creation of law, but in the determination of the contents of a proposition which is to be submitted to the sovereign for the exercise of his supreme legislative will. And not until that will has been approvingly exercised does the measure become legally executory (*Gesetzbefehl*). Essentially speaking, then, the situation is this: The ruler, as a matter of grace and expediency, is pleased to learn the wishes of his people regarding a proposition of law or the adoption of a public policy and to obtain such information regarding its wisdom as a representative chamber is able to provide; and these wishes and this information he necessarily takes into consideration in determining the exercise of his own sovereign will. But never does he regard these factors as controlling in any affirmative sense. So long as the constitution which he has promulgated exists, he agrees not to act contrary to its provisions with regard to the matters which are therein specified. But not for a moment does the German ruler admit himself to be under a legal or even a moral obligation to give effect to an

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expression of the will of the representatives of the people of which he disapproves.

It is this relationship in which the King stands to his popularly elected legislative chambers which interprets many features of German public life which seem strange to English and American observers. It explains, in the first place, the fact that it is considered a moral and wholly justifiable practice for the King and his personal advisers—"the Government" as they are called—to control, so far as they are able, not only the elections of members to the representative body, but by rewards and other forms of political pressure to influence the votes of the representatives after their election. It explains furthermore the policy of the "Government" in playing off one party or faction against another and thus through the *bloc* system of obtaining a majority vote in favor of action which the Government desires. It explains also the fact that scarcely the first steps have been taken in Germany in the development of responsible parliamentary government whether of the English or the French type. It is indeed recognized by all of their publicists that such a system is absolutely incompatible with the German conception of monarchical power. It is true that irritation at

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times intense in character, has been felt and expressed against the assumption by the Emperor of the right to direct and control foreign affairs by his own personal acts and words; but this has been, not because this has been in derogation of the power of the representatives of the people or of a ministry which they support, but because, as has been earlier said, under the imperial constitution, he is required to act through his Chancellor, who in turn is supposed to exercise his power in and through the Bundesrath, which body in turn represents the "Governments" of the several States of the Empire. Since the downfall of Bismarck, and especially since the retirement of his successor Caprivi, the Emperor has selected as his Chancellor and President of the Prussian Ministerium men who have been willing in very large measure to subordinate their own wills and judgments to that of their imperial master, and thus, in fact, the influence of the Emperor has been very great, especially in foreign affairs.

The monarchical conception in Germany explains, still further, the right which is freely exercised by the "Government," of dissolving the elected chamber when other methods of obtaining its support for a government measure have failed; and, it may be said,

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so powerful is the official influence exerted in the ensuing election, that in all cases the result has been that the newly chosen chamber was of the desired political complexion.

Von Bülow, in his *Imperial Germany*, complains that the Germans lack political ability, by which, as he explains, they show a disposition to form a multitude of minor parties based, not on broad public principles but upon narrow, particularistic, and personal interests. It would seem, however, that this failure of two or more strong political parties to develop has been due in no small measure to the attitude which the "Government" assumes towards all political parties. The one strong political party—the Social Democrats—which has been formed in German imperial politics, is strong in numbers rather than in influence, and, moreover, occupies a very particular position, for, as Von Bülow frankly says, it has, from the viewpoint of the "Government," no right to exist. He flatly stigmatizes its members as enemies of the German State—enemies for the overthrow of whom any means, including force when necessary, may rightfully be employed.<sup>1</sup> As to the

<sup>1</sup>These statements are discreetly omitted by the former Chancellor from the second edition of his work, issued since the beginning of the war.

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reasons why the Social Democrats are held in such peculiar detestation by the "Government," shortly stated, it may be said that it is not so much their legislative program which is disapproved of as it is that their fundamental political doctrines are in conflict with the monarchical conception of the Empire and of Prussia. This is made abundantly clear by reading between the lines of Von Bülow's book.

Finally, it may be said that the monarchical conception in Germany explains the open and avowed measures which are taken by the ruling authorities to control the formation and expression of a popular opinion with regard to matters of public policy. Not only is there kept a strict control over unofficial expressions in the press, as the numerous prosecutions for *lèse-majesté* testify, but, and more especially, governmentally inspired articles are constantly published in the leading newspapers in order that the people shall be led to take a favorable view regarding public policies which are approved by the "Government."

In order to make this point clear we may quote the words of Dr. Hasbach taken from an essay entitled "The Essence of Democracy,"<sup>1</sup> in which he

<sup>1</sup> Published in the *American Political Science Review*, February, 1915. This article was called out by a review of his volume *Die Moderne Demokratie*, published in 1912.

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discussed the function which public opinion should play in the modern constitutional State. "Who forms public opinion?" he asks. "In a democracy and a parliamentary monarchy (such as exists in England), it is created exclusively by parties; in a constitutional monarchy (as known in the German States) on the other hand, by parties and government. For a full understanding of this important difference we first must clearly distinguish between parliamentary and constitutional monarchy. In parliamentary monarchy the influence of the monarch is as a matter of fact so far suppressed that here too the stronger party opinion determines the destiny of the country, while in the constitutional monarchy the prince as joint possessor of the legislative power, and as the possessor of the executive, exercises a considerable influence upon the formation of public opinion. The ministers nominated by him introduce bills into parliament; they defend them against the criticism of representatives whom they are compelled to face; the prince addresses messages to parliament; he can dissolve it and thereby take a position on definite questions; official newspapers defend the attitude of the government; party organs which approve the policy of the government support it or open

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their columns to it; the government seeks to influence representatives, etc."

"There are methods," Dr. Hasbach continues, "some of which are also understood in America; in America the President addresses messages to Congress; presidents and governors attempt to influence the legislative power; there are also newspapers which support the President and governors against the legislative assemblies if they consider the former's policies advantageous." This, it may be answered, is true, but the important fact to be observed is that in America the President and the governors of the States are themselves the leaders of their parties and are representatives of the people. The stronger public opinion which thus finds expression in state action is therefore a popular opinion and is not one which is largely determined by the judgment of persons who are not responsible to the people and who only in a purely fictitious sense can be said to represent them.

In summary then, we may ask, what is conceived to be the part which the elected representatives of the German people are called upon to play in the operation of the government? Their function is a four-fold one: (1) They constitute an avenue of

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information through which the "Government"—the King and his advisers—may learn regarding the economic and social conditions of the people, and their desires; (2) they constitute an organ of advice,—that is, the representatives, individually, or through their collective wisdom, give what amounts to advice to those in authority; (3) they criticize the acts of the government, bring its acts, or many of them at least, to the bar of public opinion; (4) they have a veto power over the matters enumerated in the constitution. This veto they can exercise by refusing, by a majority vote, to approve legislative propositions laid before them by the King. But, even in this negative sense, it is to be observed that they cannot prevent the execution of any laws already enacted by refusing to approve the necessary appropriations.

This last constitutional doctrine needs some explanation.

It is true that the Prussian constitution declares that all income and expenditure must be estimated in advance and included in a budget that must be annually adopted by a statute (Art. 99); and that "taxes and requisitions for the State's treasury may only be raised so far as they are included in the

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State's budget or provided for by special statute" (Art. 100); and that a substantially similar provision is contained in the Imperial Constitution (Art. 69). But, as is well known, during the four years from 1862 to 1866 the Prussian Government was carried on in defiance of the legislature which had refused to vote the necessary appropriations, and this was defended as constitutionally permissible by the eminent jurist, Rudolf von Gneist, whose views have since been accepted by most of the later public law writers of Germany. This constitutional justification, as is pointed out by Professor W. J. Shepard, in an able article,<sup>1</sup> is founded upon two distinctions which German jurists consider fundamental, namely, that between "law" and "ordinance," and that between "material" and "formal" acts of government. "Material" refers to the contents of a measure; and "formal" refers to its external or outward form. "A material law is an act of government which embodies some general norm or rule of conduct; a material ordinance is one which applies a general rule in a particular case, or provides the machinery for the application of the general norm. The

<sup>1</sup> "The German Doctrine of the Budget," in the *American Political Science Review*, February, 1910 (vol. IV, p. 52).

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formulation of material law is legislation; that of ordinances is administration."

Applying these distinctions to the matter of appropriations, it is held that the budget is a law only in a formal sense; materially, that is, essentially, it is an ordinance. This is significant since it is held that a merely formal law cannot repeal or render of no effect a material law. The refusal, therefore, to pass a budget cannot operate to render inoperative such material laws as are already upon the statute books. These can be repealed only by the joint action of all the organs of government by which they were enacted, that is, by the two legislative chambers and the king. An attempt, therefore, upon the part of one or even of both of the legislative chambers to use its refusal to pass the budget in order to force certain policies upon the executive is not only a vain but a culpable act. If then, they do make the attempt, as in fact they did during the years 1862-1866, it is morally obligatory upon those in executive power to carry on the government, to continue to enforce the existing revenue laws, and to make the expenditures required for enforcing all other laws.

All of this reasoning is, of course, dependent upon the fundamental assumption, earlier mentioned, that

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the legislative body is not possessed of the decisive power in the State, but that this authority is vested in the King. It is true that the Prussian "Government" later obtained from the legislature an act of indemnity for its acts during the period 1862-1866; but by the "Government" this has been interpreted as a concession upon the part of the legislature that the Government's acts had been justified, and not as an admission upon the part of the King and his ministers that they had done acts which needed to be retrospectively legalized. At any rate, the result is that, as a constitutional as well as a political doctrine, it is held in Germany that the control of the legislature over the public purse is a qualified and not an absolute one.

The function which the chambers perform in the creation of law is thus limited to the vetoing of propositions of new law of which they disapprove. And even as to the new law which is approved by them, the constitutional theory is that the part played by the chambers in its establishment is limited to a participation in the determination of the substance or material content of the law. That which gives legal life and force to this substance is the will of the King

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as manifested by his promulgation of the project in his name as law. And it does not need to be said that the King is at all times free to refuse to promulgate propositions which have received the assent of the chambers.

## CHAPTER VI

### PRUSSIA'S CONSTITUTIONAL SYSTEM

In the preceding chapter the fundamental principles upon which the Prussian constitutional system rests were discussed. In the present chapter the purpose is to outline the character of the government established by the constitution with especial reference to the extent to which the principle of popular representation and control finds recognition.

An inspection of the constitution shows that formally the powers of the King are very broad. Dr. Ogg, in his *Governments of Europe*, says that "it is perhaps not too much to say that they exceed those exercised by any other European sovereign. The King is the head of the army and the navy, and of the Church, and in him are vested, directly or indirectly, all functions of an executive or administrative character. All appointments to offices of State are made by him immediately or under his authority. The upper legislative chamber is recruited almost exclusively by royal nomination. And all measures,

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before they become law, require the King's consent, though, by reason of the sovereign's absolute control of the upper chamber, no measure of which he disapproves can ever be enacted by that body, so that there is never an occasion for the exercise of the formal veto." And, in addition, it is to be remembered that the fundamental theory regarding the nature and source of the constitution is such that the principle is necessarily accepted that the King is the residual claimant to all authority not vested in some other organ of government, and, therefore, that where his powers are not expressly limited, they are absolute in character.

After all, however, the important point is as to the political responsibility under which the King exercises his constitutional powers. If, as in England, practice has firmly fixed the doctrine that they may be employed only at the direction of ministers who thereby assume both legal and political responsibility over them, and if these ministers can, as a practical proposition, remain in office only so long as they are able to obtain the support of a majority of the members of a legislative body, the members of which are freely elected by the people, then, from the standpoint of popular government, it is proper and ex-

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pedient that the powers of the Crown should be great. But if there does not exist this expectation that the King will be guided by the judgment of his ministers in the exercise of his constitutional powers, if there is not this parliamentary responsibility on the part of these ministers, or if, in fact, the King is able to exercise a considerable or dominant influence in determining the membership of the legislative chambers, it becomes very significant that the royal powers should be as extensive as those recognized in the Prussian constitution. And, in fact, this is the situation in Prussia.

The composition of the upper chamber of the Prussian legislature is fixed by a royal ordinance issued in pursuance of a legislative act of 1853, which act, in turn, was authorized by the constitutional provision that "the first chamber shall be formed by royal ordinance which can only be altered by a law to be issued with the approval of the chambers." (Article 68.)

Without going into detail, it may be said that the *Herrenhaus*, as it is styled, is composed of princes of the royal family, members of families of Prussia that once were royal, and various other persons appointed by the King. That body, therefore, is abso-

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lutely controlled by him. Even should, by some curious chance, this body seek to act contrary to his will, he can overcome its opposition by exercising the right given him to appoint for life an indefinite number of new members, subject only to the restriction that the appointees be thirty years of age.

The members of the lower house (*Abgeordnetenhaus*), are elected by the people but in a manner that is far from democratic in character, and which, in fact, is so arranged and intended as to give dominating control to the wealthier classes.

In the first place, though manhood suffrage prevails,<sup>1</sup> the ballots are publicly cast, with the result that there is full opportunity, which is never missed, to exert pressure upon the voter from above, that is, by his employer, or by agents of the government.

In the second place, the voting districts are so arranged that those districts in which the Social Democrats are most numerous, are grossly underrepresented.

In the third place, the King has the power to dissolve the House whenever he sees fit—a power which he has frequently exercised—and thus necessitate a new election. He also may order an adjournment

<sup>1</sup> The voter must be at least twenty-five years of age.

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but not for more than thirty days, and not more than once during the same session.

Finally, and fourthly, the elections are not direct, but indirect, and according to a three class system based upon wealth. This system, shortly stated, is as follows:

The members of the House are elected by "colleges" in each of the constituencies, which, by a majority vote, elect the one, two or three members to which the constituency is entitled. These "colleges" are elected by the voters as grouped into three classes, each class electing one-third of the members of the electoral college of their respective constituency. The electorate districts are subdivided into a large number of small precincts in each of which one elector is chosen for each two hundred and fifty persons. In these precincts the voters are grouped into the three classes which have been mentioned according to the amounts of taxes paid by them. The first class is composed of those voters who individually pay the most taxes and who together pay one-third of the total amount of taxes paid in the precinct. The second class is composed of those voters who, individually, pay the next largest taxes and together pay a third of the total taxes. The third class is

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composed of the remaining voters. Each of these classes, voting separately, elects one-third of the members of the electoral college to which the precinct is entitled.

The inevitable and intended result of this arrangement of course is that the first two classes, composed of very few voters, and all persons of comparative wealth, elect two-thirds of the members of the colleges which are to elect the people's representatives in the Lower House. In more than two thousand of the districts the first class of the voters is composed of a single individual; and in some nineteen hundred other districts of only two individuals. It has, indeed, been estimated that twelve or thirteen per cent of the population elect two-thirds of the representatives, thus having twice the voting power of the remaining eighty-seven or eighty-eight per cent of the people. In result, then, even should the principle of parliamentary responsibility be applied to the King's ministers, it would still leave the controlling power in the hands of the wealthy classes, whose interests and inclinations incline them to support conservative as opposed to radical or social democratic policies. In fact, however, no provision for cabinet government of the responsible type has been

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made. The King's ministers, appointed by him, are, as Lowell says, "the servants, not of the Chambers, but of the Crown, a fact that finds its outward expression in the frequency with which they refer to the personal opinions of the King. Nor are they subject to an effective control of any kind on the part of the legislature, for although the constitution provides that they can be prosecuted for bribery, treason, or violation of the constitution, upon a resolution passed by either House, there is no statute prescribing any penalties, and hence the provision is a dead letter."<sup>1</sup>

The ministers do not even act as a unit. There is a so-called Minister-President, but he has no real political control over his colleagues. Each minister is thus directly responsible to the King who appoints him, and who can at any time remove him from office. "He selects them," says Lowell, "for their administrative qualities rather than their political opinions, and requires of them administrative capacity and obedience to himself."<sup>2</sup>

Aware of its lack of controlling power, the Prussian Landtag is content, for the most part, to concern

<sup>1</sup> *Governments and Parties in Continental Europe*, vol. I, p. 289.

<sup>2</sup> *Op. cit.*, vol. I, p. 291.

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itself with measures which are prepared and submitted to it by the King's ministers. And, as regards the administration of the laws that are enacted, its control is very slight. "It can appoint commissions to make investigations, but the Government can forbid the officials to give them any information, and in fact the ministers have insisted that such commissions, like all the committees of the Landtag, shall hold no direct communications with any officers but themselves. It can require the presence of the ministers and ask them questions, but they may answer or not as they please. It can address interpellations to the Government, but as the parliamentary system does not exist in Prussia, these have not the same importance as in France and Italy. Each chamber can also present addresses to the King, who may pay attention to them or not, as he thinks best. In short, the influence of the Landtag over the administration is confined to expressing an opinion which is not likely to have any great effect."<sup>1</sup>

*Prussia's Place in the Empire.*—Even at the risk of becoming still more deeply involved in constitutional law as distinguished from political theory, it will be necessary to say a word regarding the dom-

<sup>1</sup> Lowell. *Op. cit.*, vol. I, 299.

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inant influence which Prussia has in the Empire, for it is this which gives greatly increased significance to the constitutional theory and practice of the Prussian Kingdom.

Of primary importance with respect to Prussia's hegemony is the historical fact, fully appreciated by all Germans, that German unity and German national strength have been realized in very large measure through Prussian effort. Prussia not only formed the purpose and supplied the leadership, but furnished the material means for bringing these results about. It is but natural then that the German people should continue to look to Prussia for political direction and political instruction.

Added to this historical circumstance of leadership is the fact that Prussia has excelled the other German States in its industrial and commercial development, in the efficiency of its administrative organization and operation, in the growth of its institutions of learning, and their productivity in the fields of natural science and its practical applications, and in its elaborate social legislation for the betterment of the living and working conditions of the laboring classes. All these materialistic, or, as the Germans would say, realistic, results have had

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their influence in exalting Prussian influence throughout the German Empire. The fact that during recent years Prussia has lost her prestige in pure philosophy, and has never been distinguished in the æsthetic arts, has been overborne by her more material successes.

Still further, as explaining the dominance of Prussia, is of course her territorial size and number of population, which in both respects is greater than all the other States of the Empire combined. Out of a total area of slightly more than two hundred thousand square miles included within the Empire, approximately one hundred and thirty-five thousand are enclosed within the Prussian borders. And out of a total imperial population of, say, seventy millions, considerably more than forty millions are Prussian subjects.

*Special Prussian Rights Provided by the Imperial Constitution.*—Even did the German Empire resemble the American Union by making no distinction between the constituent States as regards their right to participate in the control of the Imperial or Federal Government, the facts which have been mentioned would have been abundantly sufficient to give the leadership to Prussia. But the su-

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riority thus made certain has been further increased by the following special provisions of the Imperial Constitution.

1. Prussia's King is *ex officio* the German Emperor.

2. Prussia's vote in the Bundesrath is sufficient to prevent the adoption of any proposed amendment to the Imperial Constitution.

3. No army, navy, or revenue measure may be enacted by the Imperial Parliament without the approval of the Prussian Government, if it operates to change the *status quo ante*.

4. To Prussia is given the presidency of all the committees in the Imperial Bundesrath with the exception of one, that on foreign relations, which is given to Bavaria. This committee, however, has never been an important one, its function extending little beyond listening to communications made to it by the Chancellor.

5. Though not a constitutional discrimination in favor of Prussia, but as resulting from her size and population, is the fact that Prussia possesses or controls 21 votes<sup>1</sup> in the Bundesrath out of a total of

<sup>1</sup> Including her control of the one vote of Mecklenburg-Schwerin, and the three votes of Alsace-Lorraine.

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61; and sends 235 representatives to the Reichstag out of a total of 397.

Except in time of war, the constitutional powers of the Emperor are not great—many of the powers normally possessed by a constitutional monarch being vested not in him, but in the Bundesrath, which acts as the collective organ of the “Governments” of the federated States of the Empire. For reasons which need not here be given the Bundesrath, which sits in secret, continuous session, and whose members are constitutionally obligated to vote according to instructions given them by their respective Governments, is the dominant organ, in times of peace at least, in the German Imperial system. But inasmuch as the voice of the Prussian delegation is, in practice, controlling in the Bundesrath, and this delegation is sent and controlled by the instructions of a Government which is under the effective control of the Prussian King and his advisers, it necessarily follows that the Emperor, exercising his powers as Prussian King, is able to exert a powerful influence in the Imperial Government. It is true that there has been dissatisfaction in Germany, which at times has been intense, because of utterances and activities of the present Kaiser; but this has been because he

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has acted outside the channels constitutionally provided. Instead of using his influence to control the Bundesrath either indirectly or through the Prussian delegation, he has, in appearance at least, given utterance to personal opinions on matters of the gravest public importance without first subjecting them to the sobering consideration of his constitutional advisers, and giving at least an opportunity to the members of the Bundesrath to discuss them.<sup>1</sup>

<sup>1</sup> The qualifying phrase, "in appearance at least," is advisedly used since there is considerable ground for believing that in some of the instances, in which the Kaiser appeared to speak or write wholly upon his own initiative, or even impulsively, it was with the approval of his constitutional adviser, the Chancellor, and that purely political reasons made it desirable that the Kaiser, rather than the Imperial Government, should appear as the author of the statements made. For example, the responsibility for the famous Kruger telegram of January 3, 1896, in which the Kaiser congratulated the President of the Transvaal in repelling the Jameson raid, was placed wholly upon the shoulders of the Kaiser, the truth not appearing until thirteen years later when, in March, 1909, speaking to the Reichstag, Chancellor von Bülow said: "It has been asked, was this telegram an act of personal initiative or an act of State? In this regard let me refer you to your own proceedings. You will remember that the responsibility for this telegram was never repudiated by the directors of our political business at the time. The telegram was an act of State, the result of official consultations, it was in no wise an act of personal initiative on the part of His Majesty, the Kaiser. Whoever asserts that it was, is ignorant of what preceded it, and does His Majesty completely wrong." Shaw—*William of Germany*, p. 154.

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In the Empire the popularly elected Reichstag has not much more influence in determining the policies of the Government or the manner of executing them than has the *Abgeordnetenhaus* in Prussia. Its members are indeed directly elected upon a practically manhood suffrage, and by secret ballot. But the arrangement of constituencies is such that the districts in which the Social Democrats are strong are grossly under-represented, and no constitutional means are provided whereby its majority will can determine who the Chancellor shall be. We say the Chancellor, rather than the Ministry, because in fact there is no imperial cabinet or ministry in the English or French sense. The Chancellor is at the head of the government and the ministers who assist him are his subordinates or servants and not his colleagues.

What likelihood there is that a system of responsible parliamentary government will develop in the Empire, and the changes in distribution of powers that such a system would involve, is a subject to which the next chapter is devoted.

## CHAPTER VII

### TENDENCIES TOWARD MINISTERIAL RESPONSIBILITY IN GERMANY

When asked, "How far do you regard the present constitutional system of the Empire final?" Bismarck is said to have replied, "Final it is not. Doubtless we shall pass through the stages which you in England have passed through. But it will be a slow, gradual process, and we cannot foresee the direction which development will take." That judgment expresses a strong belief in the evolution of constitutional government—an evolution, moreover, which in general must follow the course of English political development, but which will doubtless unfold very slowly and reflect in its details the influences of special circumstances and local tendencies. To the general propositions which the Iron Chancellor stated, the student of comparative political institutions must give assent. Ever more clearly are we coming to see that the changes in the forms and

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organization of governments follow an orderly, developmental sequence.

The belated evolution of parliamentary government in Germany is entirely explicable from the peculiar centrifugal forces which prevented absolutism, in the seventeenth and eighteenth centuries, from accomplishing its great mission of national unity. That work was left to the nineteenth century. The results of the Revolutionary and Napoleonic era were: first, the widespread acceptance of the most advanced doctrines of constitutionalism and the adoption, in most of the smaller states of Germany, of constitutions more or less closely modeled on the French Charte; and, second, the dissemination of the idea of German national unity as the only secure protection against foreign aggression.

Though urged together as concomitant principles of the Liberal cause, these two dynamic ideas were essentially incompatible. The nature of constitutionalism, culminating as it does in democracy, is dispersive, centrifugal, disintegrative. Unification could only be accomplished by the absolutist agencies of iron and blood. The priority between these two movements belonged logically to that for national unity. The constitutional propaganda undoubtedly

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interfered with, and probably somewhat delayed, the achievement of a united Germany; but the dominant note throughout the period from Jena to Sedan was national unity. This movement has left a heritage of crass materialism, a worship of force, which constitutes one of the striking characteristics of present-day Germany. The remarkable transformation in the nation's *Weltanschauung*, in the *Zeitgeist*, since Kant and Fichte, Goethe and Schiller expressed the lofty idealism of the Germany of a century ago, must be reckoned with in any attempt to gauge the strength of liberal tendencies to-day. This spirit of aggressive materialism, personified in its completest sense in Bismarck, has dominated external and internal politics, as it has all commercial and industrial activity, and has gone far toward crushing out the sentiments of liberty and freedom, of self-government and popular rights, which, for the very reason that they were in large measure doctrinaire, flourished in the philosophic atmosphere of the early nineteenth century. There is no doubt that the cult of force conduces to the strengthening of the monarchical principle.

The constitutional movement of the first half of the nineteenth century, on the other hand, has very

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much of a fictitious character. It is essentially premature; it represents the efforts of the advanced Liberal section of opinion to force the nation into a phase of constitutional evolution for which it was not yet ready. The formal copying of the institutions of England and France had the effect merely of setting in motion powerful forces of reaction. All the fundamental laws which date from this epoch contain definite articles on ministerial responsibility, impeachment, countersignature and interpellations. They afford ample basis, so far as constitutional prescription goes, for the establishment of responsible government. They satisfied the demands of radical publicists like Rotteck, Welcker and Robert von Mohl, whose works on constitutional government were one of the principal agencies for the spread of French and English ideas. And yet up to the present moment in no state of Germany, and much less in the Empire, have ministers recognized a real or effective responsibility to any one but the monarch.

— The work of national unity and the reactionary tendencies incited by the premature adoption of the outward forms of parliamentary government have checked the development of liberal institutions. But of recent years the indications of a transition to a

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new phase of government have become increasingly numerous and remarkable. These signs of change may be grouped into three general classes: first, the tremendous upheaval of discontent at what is called the "personal régime" in the Empire; second, the widespread demand that an effective ministerial responsibility to the Reichstag be imposed upon the Chancellor, and the suggestions of such a change actually taking place; third, the democratization, and agitation for democratization, of the electorates in the several states.

Discontent at the personal rule of the Kaiser has been occasioned by his oft-repeated assertions of divine right, by the obtrusion of his personality into every sphere of private as well as public activity, by his direct participation in elections and aggressive opposition to Social Democracy, by his flamboyant and indiscreet utterances on foreign affairs, and finally by the lack of success which has attended his efforts in personally directing Germany's foreign policy. There is no doubt that the feeling of dissatisfaction and protest at the personal régime is almost universal. No party or section of political opinion defends the Kaiser against the chidings of the nation. But it does not follow from this that the desire

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for parliamentary government of the English or French type is equally general. Twenty years ago the Kaiser "dropped the pilot," and has insisted ever since on steering the ship of state himself. His chancellors have been mere personal secretaries with very little power of initiative. To do the Kaiser's bidding has been their almost sole function. Having taken the helm, he has been compelled to bear the responsibility. In descending into the arena of party contests, he has forfeited the protection which the throne affords. The mystical doctrine of royal irresponsibility cannot be pleaded by him who chooses to be his own first minister. William I more wisely exercised his autocratic power through a Grand Vizier. Bismarck, in taking over the effective direction of governmental policy, was able to shield his "*alter Herr*" from the popular attacks and partisan hostility, to which William II has subjected himself by undertaking on every occasion the personal direction of government. The purely formal responsibility which the Chancellor has assumed for his Imperial master's acts has deceived no one. The reaction against the personal régime might have been predicted as soon as the principles governing the new reign were discerned. This protest and discontent at

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arbitrary personal government does not, however, imply a desire for parliamentary ministerial responsibility. It may mean, and among large sections of the people does mean, nothing more than a demand for a return to Bismarckian traditions,—a restoration to the Chancellorship of the functions of a Grand Vizier.

Thus far it is evident that the national revolt against the personal régime has produced no perceptible effect upon the mind of the Emperor. His latest appointment to the Chancellorship can in no wise be interpreted as indicating a willingness to return to the practice and methods of his grandfather. Whether we view Prince von Bülow's retirement as occasioned by his defeat in the Reichstag or as the consequence of the withdrawal of Imperial favor, there is no doubt that von Bethmann-Hollweg occupies no essentially different position than his predecessor. The Kaiser, in insisting on himself playing the star rôle in every act of the political drama, condemns the rest of the caste to a dead level of mediocrity. It is difficult to say how far this refusal to listen to the loud expressions of popular disapproval may go without causing a decided increase in the demand for a more radical solution. As yet, however, the most

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influential section, though probably not the numerical majority, of the people are opposed to the establishment of parliamentary government.

The second class of indications of impending change more definitely point in the direction of ministerial responsibility. Indeed they have been widely hailed as insuring a speedy transition to parliamentary government. Their importance, however, we are convinced has been greatly exaggerated. Article 17 of the Imperial constitution, it must be remembered, provides that "The ordinances and decrees of the Emperor shall be issued in the name of the Empire, and require for their validity the countersignature of the Imperial Chancellor, who thereby undertakes the responsibility for them." This article was not included in the original draft; it constituted no part of the constitution of the North German Confederation, out of which the Empire grew. It was incorporated as an amendment, on the motion of Bennigsen, and is copied almost literally from the Prussian constitution. It has no essential or organic relation to the rest of the instrument. Together with the similar articles in the constitutions of the several states, it has been the subject of a vast amount of discussion. A veritable flood of academic literature

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has dealt with the nature of the ministerial responsibility which the various constitutions prescribe. Is it a civil, a criminal, a disciplinary, a constitutional, a political, or a moral responsibility? In characteristic German fashion the war of the monographs has been waged.

Especially futile is the discussion over the responsibility of the Chancellor, inasmuch as the article of the Imperial constitution embodies inherent inconsistencies, which do not exist in the case of the States. To whom, in the first place, is the Chancellor responsible? It cannot be the Kaiser, for the intention of the article is manifestly to relieve the Emperor of a responsibility which the Chancellor undertakes. It might perhaps be interpreted as a responsibility to the Bundesrath. But since this body is representative of the confederated governments, and the Prussian government possesses the hegemony to such an extent that it practically controls its decisions, this resolves itself into a responsibility to the Prussian government, or, in other words, to the King of Prussia. Moreover, the constitution makes the Chancellor the presiding officer of the Bundesrath, though not, as Chancellor, a member of the body. Can it be supposed that it was the intention

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to require the Chancellor to moderate the proceedings of the Bundesrath, and at the same time to be ready on every occasion to defend his acts, and those of his master, against attack on the floor of that chamber? Furthermore the language of the article would imply, copied as it is directly from Article 44 of the Prussian constitution, that the responsibility of the Chancellor is owed to the Reichstag, the representative body of the nation. But the difficulty here is that the Chancellor, as Chancellor, does not even have the *entrée* to the Reichstag. His presence there is as Prussian Plenipotentiary to the Bundesrath. There has grown up, it is true, a practice of interpellating the Chancellor upon every line of governmental policy, and he feels impelled to defend his own and the Emperor's acts before the bar of the people's representatives. But this is an entirely extra-legal development, and rests upon the fact that he combines in his person the several offices of Chancellor, Minister President of Prussia, and Prussian Plenipotentiary to the Bundesrath.

A close consideration of the constitutional functions of Kaiser and Chancellor will reveal the difficulty in all the proposals in Social Democratic and Radical resolutions which look toward making this

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formal constitutional responsibility a reality. The Kaiser does not occupy the same relative position in the *Reich* that the several monarchs do in the member-states. The title which he at first held, "Bundes-praeſidium," better describes his functions and powers than that of Kaiser. He is invested with the full command of the army, the appointment of Imperial officers, and the duty of promulgating the laws. Farther than this his powers are confined to executing the laws, and the ordinances which the Bundesrath decrees. As Kaiser he has no share in the initiation of legislation. The great mass of William II's power, even in Imperial affairs, comes from his being King of Prussia, and as such controlling the Prussian delegation in the Bundesrath. Likewise the Chancellor's office is always attached to that of Minister-President of Prussia and head of the Prussian department of Foreign Affairs, and he is also always a member of the Prussian delegation in the Bundesrath. Over the Prussian government the Reichstag has no control, and the full realization of the responsibility enjoined in Article 17 would result in the severance of the Chancellorship from the Prussian offices. Were the Reichstag able to enforce a responsibility upon the Chancellor for all the ordi-

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nances and decrees of the Kaiser, or even for all the acts of the Kaiser, as Kaiser, it would amount to very little. The King of Prussia would appoint some one else Minister-President of Prussia, through whom he would ~~continue to~~ control the Prussian delegation in the Bundesrat and thereby exercise a determining voice in most of the decisions of that body. The Reichstag possesses very little positive power; its importance is chiefly negative. It may block legislation; discuss at length governmental policy; and affords an excellent, because unrestricted, opportunity to air radical and socialistic opinions. But it is not by the constitution vested with sufficient power to make it an effective instrument of control. This is especially true since the Reichstag's control over the budget, the power over supply, which has been in England the most important instrumentality for establishing parliamentary domination, cannot be used as a sanction for enforcing ministerial responsibility. The experience of the "conflict period" in Prussia is determining in this respect. The consensus of German juristic opinion denies to any legislative body the right to deadlock the wheels of government in order to enforce its control over the Executive, and would justify the latter, should such

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an attempt be made, in carrying on the government without the warrant of legislative enactment. It is clear that the obstacles to an effective enforcement of a responsibility by the Reichstag upon the Chancellor are well-nigh insuperable; and were he to become thoroughly responsible, his importance would immediately dwindle to insignificance.

It may be suggested that an amendment to the constitution would easily remove these difficulties. Might not the fundamental law be revised to conform to the requirements of true parliamentary government? Just here we encounter one of those fundamental social facts which determine the special direction which constitutional evolution shall take in any country. The federalism in the government is merely the political aspect of a particularism ingrained in the social structure of Germany, which results from the imperfect achievement of the work of absolutism. In Bavaria, in Würtemburg, in Baden, in Posen, in Hanover, in Alsace-Lorraine, there exist local sentiments of nationality which would even now balk any attempt to establish for the whole of Germany an effective ministerial system, responsible to the Reichstag. The people in each of the smaller states look with alarm at any proposal to enhance

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the already predominant position of Prussia. The Bundesrat is the last bulwark of particularism, and this must needs be swept away before a true parliamentary system can be established. In time this may be possible, but at present the centrifugal tendency seems if any thing on the increase.

It is, moreover, not merely a territorial particularism, but also a heterogeneity of classes and social strata which must be overcome. That homogeneity of citizenship, which is the *sine qua non* of any truly efficient system of parliamentary government is still lacking. Political party lines in Germany coincide altogether too closely with the social, religious and class lines of cleavage to permit the normal functioning of the ministerial system, involving as it does the alternation of parties in power. Not only does ministerial responsibility require for its proper working the bi-party system; it is even more important that the parties be constructed on vertical lines which cut across the social and class lines of separation. It is not merely the group system that offers a serious impediment to the establishment of government by ministries responsible to the Reichstag; that exists in France, and constitutes, it is true, an obstacle, but not an insuperable obstacle. It is rather

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the fact that party lines coincide with the lines of social cleavage that offers the chief difficulty. This makes party lines extremely rigid. That passing of voters to and fro from one party to the other, which secures the healthy alternation of parties in power, would be impossible at present in Germany. Once in power a party would retain control until gradually the economic development might produce a change.

The truth is that the constitution of the Empire is as truthful an expression, as is possible, of the actual forces which underlie the government. The Kaiser represents the principle of unity. He is the incarnation of the sentiment which, springing up in the War of Liberation, grew in strength and power until it reached fruition in the memorable scene at Versailles in 1871. The Bundesrat is the representative of the sentiment of particularism, which hitherto has successfully checked the farther growth of the sentiment of consolidated nationality. Both of these institutions, moreover, embody the principle of the hegemony of the Prussian Government. The Reichstag alone represents the German people, the popular element in the State. The clamor for a more definite responsibility of the Chancellor to the Reich-

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stag does not take account of the fact that to effect this it would be necessary to seriously disturb the balance of forces which the Constitution now safeguards, and would arouse opposition from altogether unexpected quarters.

The third, and in many respects the most significant, class of signs of the times in Germany relate to the democratization of the basis of representative government. The agitation for ministerial responsibility to the Reichstag is due to the fact that this body is elected by direct elections, universal suffrage and secret ballot. Were it not for the gross inequalities in the distribution of seats, the Reichstag would be a model of a popular, representative body. Its competence is, however, too limited to make it an effective organ of government control. Is it not reasonable to expect that, as soon as the same liberal principles are applied to the electorates of the member-states, the demand for ministerial responsibility will there also become urgent? It is, therefore, highly interesting that a general movement for electoral reform in the member-states of the Empire is under way. In the smaller German states important reforms have already been accomplished. In Baden, the most liberal of the South German states, uni-

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versal manhood suffrage for the lower chamber of the Landtag has existed since 1869, but the elections were indirect. In 1904, direct elections were introduced. At the same time the upper chamber was liberalized by the inclusion of representatives of Chambers of Commerce and the municipalities. Würtemburg, in 1906, reformed her lower chamber by eliminating the privileged members, "knights" and "clergymen," and substituting members chosen by proportional representation. In the same year, Bavaria passed from indirect to direct elections. Saxony, in 1909, repealed the three-class electoral system, which since 1896 had disgraced her Constitution, and introduced in its place a system of plural voting. Every man is given a direct secret vote, but a second and a third vote are given those who possess special property, educational, or professional qualifications. Far from ideal as this system appears, it is a great improvement. Oldenburg, in the same year, substituted universal manhood suffrage and direct elections for a suffrage based on tax-paying and indirect elections; and Saxe-Weimar substituted direct for indirect elections. Finally in the draft of a constitution for Alsace-Lorraine, which the Bundesrath has adopted within the past few weeks, provi-

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sion is made for a bicameral legislature, of which the lower house is to be elected by universal suffrage.

The reform of the antiquated and ridiculous three-class electoral system in Prussia has long been vigorously agitated. In 1914 the German Government was finally brought to the point of introducing a measure which looked to its modification. So completely unsatisfactory was it, retaining as it did most of the objectionable features of the old system, that Social Democracy was at once thrown into a fever of such colossal demonstrations as Germany had never before witnessed. Cut to pieces by the lower chamber of the Landtag, and certain of rejection in the upper house, the Government was forced to withdraw it to avoid a more crushing defeat. The results of this experiment in giving a stone when the people have demanded bread are really startling, and ought to cause deep heart searchings in high quarters. Whether the entrenched powers of autocracy and bureaucracy can be compelled to grant the popular demands is, of course, a question. The three-class system is the citadel of their powers; its abandonment would give the enemy possession of the entire fortress. A voluntary abnegation of the advantages which *Junkerthum* and *Bauernokratie* now en-

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joy is scarcely to be looked for. The application of some kind of compulsion will probably be necessary. The Social Democrats would, of course, profit most largely by a thorough-going reform of the electoral law; indeed, it is doubtful if any of the other parties would gain much. Even the Radicals cannot be expected, therefore, to view with the same eagerness a régime in which property is given no recognition whatever. The Clericals desire the secret ballot; the Liberals and Radicals would gain much from a redistribution of seats; but the Socialists alone sincerely, and without reservation, wish to abolish the ascendancy of property. Whether they can recruit allies from the Radicals depends upon how amenable they prove themselves, in the immediate future, to the influences which are working toward a revision of their intransigeant program. So long as Bebel dominates Social Democracy, and insists upon the adherence to the uncompromising doctrinaireism hitherto enforced, there is little chance of gaining assistance from the bourgeoisie. But the signs of greatly increased strength in the Revisionist wing of the party, and the faltering admission by the old leaders that in certain circumstances a *practical* attitude may be justifiable, afford ground for hope. Unless a really

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effective alliance can be secured with the Radicals there is no reason to believe that a peaceful solution of the question is possible. Even with the entire Left united it is difficult to see how the forces of reaction can be dislodged without a resort to force. The indications from all by-elections to the Reichstag point to a greatly increased Socialist poll. How long can this tremendous human flood be restrained within the barriers of the Prussian Electoral Law? When it bursts its bonds will it not carry all before it? Already some of the Socialist leaders are willing to resort to that recently invented, and most dangerous, weapon, the general strike. The thorough discipline, which the demonstrations showed the Socialists to possess, gives good promise of their being able to use this instrument effectively. Were it once employed, the end might come quickly.

The Prussian electoral question is not, as von Bethmann-Hollweg wishes to make it, a purely Prussian matter. Because of the predominance of the Prussian Government in the Bundesrath, through which it can practically nullify anything the Reichstag undertakes, any measure which tends toward liberalizing the Prussian Government must have a vital interest for the whole of Germany. The democ-

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ratization of Prussia would bring about the democratization of the Empire. Everything would be thrown into the melting-pot. The agrarian tariff would go; the naval act would be seriously cut down; even the army might not be beyond the reach of the party which is avowedly anti-militarist. It is in its connection with the Empire that this question of Prussian electoral reform is of particular interest to us, for in the democratization of the Prussian Government probably is also to be found the key to the problem of ministerial responsibility in Germany.

Let us consider what the results of universal suffrage, direct elections, and the secret ballot in Prussia would be. The upper chamber of the Prussian Landtag does not possess the peculiar powers, nor occupy the same relative position of importance in the Prussian Government, as the Bundesrath. On the other hand, the Prussian House of Representatives is relatively a more powerful body than the Reichstag. Unembarrassed by the principle of federalism, and less subject to the evils of fractional parties, it is more than probable that a thoroughly popular chamber would be able to institute an effective control over the Prussian ministers. The Prus-

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sian constitution already prescribes such a ministerial responsibility, and it would only be necessary to enforce it, perhaps, if resistance were attempted, by means of an impeachment-process, which the constitution also provides for, but which would require an *Ausführungsgesetz*. The same course of development will doubtless take place in the smaller German states. It may even be expected that some of them will anticipate Prussia in this respect. But the introduction of ministerial responsibility in Prussia would transfer the ultimate control over the Prussian delegation in the Bundesrath from King to Landtag, as ministerial responsibility in the smaller states would result in popular control of their delegations. And, since the principal power of the Emperor springs from his being King of Prussia and thus being able to control that state's delegation, this change would very seriously reduce his power in Imperial affairs. In like manner, the Chancellor would no longer be Minister-President of Prussia, or charged with the administration of the Prussian Department of Foreign Affairs, whence issue instructions to the Prussian delegation in the Bundesrath. His powers would immediately shrivel up, and he would become merely the Kaiser's personal agent,

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and the moderator of the proceedings of the Bundesrath.

If we may suppose the existence of a thoroughly responsible and powerful Minister-President in Prussia, supported by an able ministry, and possessed of the full confidence of the Prussian Landtag, it is evident that he would be in the position, which the King now occupies, to control the Prussian delegation in the Bundesrath; and, while that delegation does not constitute a majority of the entire body, such a Minister-President would probably be able, as the Prussian Government is at present able, to secure sufficient support from some of the other states to afford him a majority on nearly all questions. This would be especially true if the same popular control had been established over the delegations of the other states in the Bundesrath. What would be the result under such circumstances? The Bundesrath would become the responsible agent of the Prussian Ministry, which, in turn, would be responsible to the Prussian Landtag. The Kaiser, and his personal agent, the Chancellor, would still be nominally vested with the control over the army, the appointment to Imperial offices, and the execution of

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the laws of the Empire. But with the Bundesrath, the Reichstag and the Prussian House of Representatives all combined in their attack upon autocracy, it could not be long before even this sphere of governmental activity would be brought under some kind of parliamentary control. Curiously enough, the Prussian Landtag, and not the Reichstag, in such a case would become the ultimate controlling power in the Empire. And, so long as the principles of federalism and Prussian hegemony are retained in the German Empire, no other result may be expected. The natural and logical order of evolution would seem to be the historical order, from individual state upward and not from Empire downward.

It is not easy to say just what progress, if any, towards responsible parliamentary government has been made in Germany since the outbreak of the war. There seems to be some tendency towards the development of a two-party system in the Reichstag, the one party advocating radical Pan-Germanistic policies, and the other more moderate anti-annexationist doctrines. This line of cleavage, however, furnishes little assurance of a permanent grouping into two instead of a large number of parties. Of

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greater significance is the fact that since the beginning of the war, the government has been willing to enter into working relations with the Social Democrats, and they, or the large majority of them, in turn, have abandoned in considerable measure their "irreconcilable" attitude and adopted reformatory instead of revolutionary methods.

Of more significance, however, is the fact that the opposition of the Reichstag to Bethmann-Hollweg forced his retirement from the Chancellorship. His successor, Dr. Michaelis, however, was appointed by the Kaiser without consulting in any way the Reichstag, but he was able to remain in office but a short time, being followed by Count Hertling who, it is known, did not accept the appointment until he had made sure that he could obtain the backing of a majority of the Reichstag members. This assurance he obtained by conferring with the party leaders and making certain pledges, one of which was that two of his ministers would be selected from parliamentary ranks.

At the time this occurred, a number of the German newspapers declared that an epoch-making event had taken place—the Junkers especially asserting a

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step fatal to the old constitutional régime had been taken. The permanent significance, however, of the circumstances attending the taking of office by Count Hertling remains yet to be seen. Subsequent months have shown no marked increase in the authority and influence of the Reichstag, and, for reasons which have been set forth above, before any really responsible parliamentary government is established in the Empire, radical changes must take place in the status of the Bundesrath, in the relation of the constituent states to the Empire, and in the parliamentary situation within those states. Especially must the people, through their elected representatives, be given a far greater control in the Prussian Government, and this it is that gives especial significance to the pending proposals to liberalize the composition of the upper chamber of the Prussian Landtag, and to reform the existing vicious system of electing the members of the lower house. When this lower Prussian chamber becomes a body of representatives chosen directly by a secret ballot cast by voters no longer grouped in classes according to amounts of taxes paid, and with voting districts represented according to their respective populations,

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the voice of the people will undoubtedly have a force it now lacks to compel executive responsibility to itself and amenability to its wishes.

## POSTSCRIPT

Since the foregoing was written, and while this book was in process of printing, the Imperial Decree of September 30 and the notable address to the Reichstag of the new Chancellor, Prince Maximilian, on October 5, 1918, having for their purport to make known that the government had decided to adopt the principle of responsible government appeared. This address undoubtedly constitutes what will always be one of the great political documents of Germany.\* It is impossible to over-emphasize its importance. On the face of it, it represents a complete acquiescence in the position that the Imperial Chancellor and other ministers shall hereafter be responsible to the people as represented in the Reichstag instead of to the Kaiser. It means, if its full implications are carried out, that the government of Germany shall be transformed from an autocracy to a popular government of the representative type. Due to its importance we have felt justified in reproducing in an appendix that part of the address of the Chancellor dealing with this political change.

Though the delivery of this address puts the entire problem of the achievement of responsible government in

\* See Appendix.

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Germany in a new light, we have nevertheless thought it desirable to leave unchanged what has been written on this subject, since the consideration of the subject there given shows the tremendous difficulties that confront Germany in making the change without almost completely altering the form of government now in existence.

## CHAPTER VIII

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The foregoing pages have failed of their purpose if they have not shown that there is a distinctively Prussian political philosophy which has spread throughout Germany, which is used to defend the denial to the people of a right to control their own government, which calls upon them, in matters political, to subordinate their individual judgments and consciences to the pronouncements of their rulers, which has dictated, in large measure, the aggressive policies of the Empire, and which has been, and continues to be, employed to justify, in the forum of morals, the atrocities that have been committed with official sanction by the soldiers, sailors and airmen of Germany and her allies.

It will have been seen that the doctrines which have been declared and vigorously applied can be truly said to constitute a philosophy since they are logically related to one another and together constitute a systematic whole. If, as Lincoln said in one

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of his speeches, we find a number of timbers of different sizes and shapes which, when brought together, fit into one another and form a symmetrical structure, we are justified in believing that these parts have been deliberately prepared with a view to the use to which they are finally put. And so it is with regard to the logical parts of Prussia's political theory and constitutional practice.

Throughout this carefully constructed system of political thought there plainly appears one element which gives a special character to it, and which is largely responsible for the malign influences the system has exerted. This is the divine or mystical, or providential element—call it what you like—which, being granted, removes the Prussian State and its policies from the realm of practical reason and exempts them from the restraining control of the rules of morality which apply in all other fields of human conduct.

Thus, by the following logical steps, the argument advances:

There is to be discerned in human history the working out of a divine or providential plan, or, in Hegelian language, the progressive realization of reason, the ideal tending constantly to become the

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real. In this process of human development, different peoples by reason of their inherent qualities, are called upon, in turn, to take the leadership. At the present time the Teutons possess those special racial endowments; their Civilization or Kultur exhibits the characteristics which are needed for advancing the human race still further along its appointed path; and to lead the Teutons the Prussians have been providentially called. This they can do only in and through their State, which thus appears as an agency of the divine or providential will, or as a product of the absolute Reason. As related to the world purpose the Prussian State may thus appear as a means; but as related to the individuals subject to its control, its maintenance is an end in itself, its origin inscrutable, its authority not subject to question. This State-Being, as thus mystically conceived, demands for its effective operation a monarchical form of governmental organization in which, not simply as a legal proposition, but in practice, the personal will of the ruler shall be supreme. Such a ruler is supplied by the Hohenzollern family, whose head is by divine right entitled to the Prussian throne.

The existence of the foregoing philosophy cannot

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be doubted. If we did not find it explicitly avowed by Germany's publicists, historians, moralists, theologues, scientists, and statesmen, the authorized acts of her governments and her peoples would necessarily imply it. And yet, because of its mystical and abstract character, and because of its atrocious implications, it is not strange that we should hesitate to believe that an intellectually enlightened people could possibly have become indoctrinated with it, and their views regarding political matters perverted by it. How it has been possible to accomplish this result, in appearance so difficult, it will now be shown.

The first proposition from which we must start is that this philosophy which has made Germany a pariah among nations is not only political in nature, but political in its origin and propagation.

It is not a matter for surprise that there should be differences in national ideals when different States are in different stages of social and industrial development, or when their peoples give assent to different religions, or for one reason or another have adopted different interpretations of the nature and meaning of human existence. The writer has recently had the opportunity in China of studying and observing the ideals and practices of a people who

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are still in the agricultural as distinguished from the industrial and commercial stage of economic life, and who accept a religious and ethical philosophy fundamentally different from our own; and, examined in the light of these determining facts, it has not seemed strange that certain standards of personal conduct in China, should not be the same as those of the Christianized and industrialized western world, and that the hierarchical arrangement of the virtues should be different from that with which we are familiar. But when we find a people of a country like Prussia, and the other middle European peoples so far as they have submitted to Prussian influence, avowing belief in, and practicing doctrines which shock the consciences of all the other peoples of the civilized world who are in substantially the same stage of industrial and commercial development, and who accept the same religion, and in private life are guided by the same rules of morality, we are confronted with a situation that demands an explanation. Explanation there must be, for it is scarcely conceivable that such a remarkable condition of affairs could have come into existence in a purely fortuitous manner.

Inasmuch, now, as we are unable to find this ex-

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planation in a ruling metaphysics, or a distinctive religion, or a system of personal morals, or a social order, or a stage of economic life which is peculiar and distinguishing, but do find in operation a system of government founded upon constitutional and political principles radically different from those which find acceptance and application in England, France, Belgium, Italy and the United States, then a strong presumption is necessarily raised that here is to be found the explanation which we seek. And this presumption is still further strengthened when we find that the German Governments deny to their peoples the right to determine their own political destinies; that they assert, as a practical proposition, that it is not within the competence of the popular will of even an intellectually enlightened people to form intelligent judgments regarding matters of public policy unless guided and controlled by those in political authority; and that the machinery of these governments is so organized and operated that it has the organs or instrumentalities through which it is able to create and mold public opinion; when, in other words, we find the clergy subjected to strong governmental influence, education from the primary school to the university practically monopolized by

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the State, and a system of military service maintained that brings almost the entire body of youths of the country under complete and rigid governmental control at the very period of their lives when their ideals are most susceptible to outside formative influences; and, finally, when we find it frankly avowed that it is within the legitimate sphere of public authority that the press should be controlled and employed as an agency for spreading doctrines favored by those in political authority and for discrediting doctrines which are not favored—when, I say, we find all these political conditions it no longer appears strange that those in control of the machinery of government should have been able, by reiterated action extending over several generations of time, to spread among a people and secure the acceptance of doctrines which, however false, are surfaced over with a transcendental and pseudo-philosophical character which appeal to patriotism upon the emotional side, and which furthermore make a direct bid to sordid and selfish interests by justifying every action which will tend to increase the political power and material prosperity of the community.

Professor Dewey in his recent volume, *German Philosophy and Politics*, is thus justified when he

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says that "Germany is the modern State which provides the greatest facilities for general ideas to take effect."

Of primary importance as a means of spreading ideas among the people, are the educational institutions of the German States.

As is well known, these, from the primary school to the university, are state agencies and, in fact, treated as being as much governmental organs as are the other branches of the public service. The Prussian constitution itself provides that "All public and private educational institutions shall be under the supervision of authorities appointed by the State" and the "Teachers in public schools shall have the rights and duties of public officials" (Article 23). And, in this connection, it may be noted that in all the German States private schools are few in number and of negligible influence.

What gives further significance to this state monopoly of education is the fact that one of the chief functions of the higher institutions of learning is to prepare for entrance to the civil service of the State and to qualify the students for appointment as officers in the army. Only through the universities can

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enrollment in the powerful bureaucracies of the German States be secured.

That the Governments of the German States have employed their control of education in order to inculcate in their subjects the political views which their rulers have desired them to hold, is beyond doubt. This is shown not only in the teaching that has been prescribed, but in the manner in which their popular schools have been organized. This latter point is one that, perhaps, has not been sufficiently appreciated in America and therefore needs some emphasis.

Care has been taken by the governments so to exercise their powers of organization and supervision of the schools that the so-called lower or working classes (in which democratic ideas may be expected to be the most prevalent) shall not have a reasonable chance to lift themselves into the upper classes, and especially that they shall not have the opportunity to obtain that amount and kind of education which will qualify them for entrance into the civil service of the State.

The education obtained by probably ninety-five per cent of the children is limited to that obtained in the elementary schools, the *Volksschulen* as they

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are called. The best as well as the latest description which we have in English of these schools is that given by Professor Alexander in his volume entitled *The Prussian Elementary Schools*, published in 1918; and we can therefore do no better than quote what he has said there. Before doing so, however, it should be said that this volume was prepared with no polemical purpose. It finds a place in the well known series of educational text-books edited by Professor Paul Monroe, and, as its preface tells us, was prepared before the outbreak of the present war.

For our purpose the most interesting chapter of the volume is the third entitled "General Relationships of School Systems." <sup>1</sup>

"The aim of the elementary school," says Professor Alexander, "is to develop efficient German citizens—to give boys and girls moral and religious training, to furnish them with that general fund of knowledge every intelligent, independent citizen must have, and, above all, to make them patriotic members of society. The *Volkschulen*, as well as the middle and higher schools, are institutions of gen-

<sup>1</sup> It is pointed out that though there are of course minor differences, the Prussian educational system is typical of the systems found throughout Germany.

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eral training, and in themselves do not aim to prepare for any definite career; that is, they do not prepare boys and girls for a special trade or calling. . . . For example, it would be impossible for a boy who had gone through the *Volksschule* to study law, because he has had no Latin, which the study of law presupposes.

“The pupils of the *Volksschulen* are children of day laborers, peasants, small farmers, waiters, clerks, porters, truck drivers, janitors, lower railway employees, blacksmiths, locksmiths, and other workers of this order:

“The child remains eight years in the *Volksschule* and his training is altogether general. At the end he has learned to read, write, count, and sing; he has gathered something concerning nature and the daily life about him; and has been taught his duties towards God and his fellow men. When this is done, he is free to choose his work within certain fields. As a rule he selects some trade or calling and becomes an apprentice, at the same time completing his education in a continuation school, or in some kind of a trade school.”

All this, so far as it goes, is excellent in scope, and, be it said, especially excellent in execution. The

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feature that is offensive to true democratic ideals enters when we find that the system is so arranged that after the age of nine there is practically no chance for the pupil to transfer to those schools which prepare for the Gymnasium, or University, and thus to qualify for one of the learned professions or for appointment to any of the higher branches of the State's civil service, or as an officer in the army. The courses of study are arranged so that it becomes practically impossible to make this transfer. In addition, the tuition fees charged in the Gymnasium are made so large that they cannot be met by the ordinary working man's family. The result is, as it is intended to be, that, for the great mass of the people, no real opportunity exists for the children to rise out of the class into which they are born. The ruling class, civil and military, is an aristocracy almost as tightly closed to outsiders as if absolute legal barriers were erected.

In result, Professor Alexander declares, "a careful study of the Prussian school system will convince any unbiased reader that the Prussian citizen cannot be free to do or act for himself; that the Prussian is to a large measure enslaved through the medium of his school; that his learning instead of

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making him his own master, forges the chain by which he is held in servitude; that the whole scheme of Prussian elementary education is shaped with the express purpose of making ninety-five out of every hundred citizens subservient to the ruling house and to the State." "The elementary schools of Prussia have been fashioned so as to make spiritual and intellectual slaves of the lower classes. The schools have been used almost exclusively to establish more firmly the Hohenzollern upon his throne."

The next year after his accession to the throne the present Kaiser issued an order in which he said: "The schools must create in the youth the conviction that the doctrines of socialism are contrary not only to God's decrees and Christian moral teaching, but in reality incapable of application and destructive both to the individual and the State. The schools . . . must show that the power of the State alone can assure the individual his freedom and his rights, and impress on the youth how Prussian Kings have continually given themselves pains to better the conditions of the working classes from the time of the legal reforms of Frederick the Great and the abolition of serfdom until to-day. Further, the schools must prove by means of statistical facts how materially

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and how constantly during this century the conditions of living and the wages among the working-classes have improved under our royal protection."

It is thus seen, that with deliberate intention instruction in history has been employed to support the monarchy. In fact, however, it has been still further employed to teach a narrow rationalism.

This is a point which has been excellently brought out by Professor E. B. Greene.<sup>1</sup> He calls attention to the increased emphasis that has been laid upon Prussian history in the schools since the Revised Program of 1902, and quotes the statement of Neubauer, a leading educational expert, contained in a volume dedicated to William II, that "Since we have become a Nation the dream of an education from the standpoint of universal history has vanished."<sup>2</sup> And Neubauer himself says:

The national function of historical instruction can be no other than to demonstrate the moral authority of the State; to impress on the heart of the people what the State and Nation mean for him; to awaken the sense of profound obligation of unconditional dependence on his people.

<sup>1</sup> "Right and Wrong Uses of History in a Scheme of Civic Education." *School and Home Education*, April, 1913.

<sup>2</sup> Seit wir eine Nation geworden sind, ist der Traum eines universalgeschichtlichen Unterrichts geschwunden. In Lexin, *Reform des höheren Schulwesens in Preußen*. Halle. 1902. p. 229.

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Furthermore, as Professor Greene says in the paper to which we have referred: "The teaching of history in Prussia is not only aggressively rationalistic, it is also meant to establish the monarchical tradition. 'For us Germans,' we are told, 'national feeling takes on a special coloring; loyalty to our people and devotion (*Anhänglichkeit*) to the monarchy are inseparable.' To inspire the people with 'an indestructible feeling for the State' (*Staatsgefühl*) and a spirit of loyalty to the inherited monarchical constitution is held to be one of the 'fairest fruits' of historical teaching.<sup>1</sup> The child in the *Volksschule* is to be shown the 'beneficent strivings and success of our noble princely family' as well as 'the great deeds of our people,' in order to plant in his heart 'love and holy enthusiasm for Emperor, King, people, and Fatherland.'<sup>2</sup> The official regulations for the normal schools require that the future teachers shall be 'qualified to arouse and to nourish in their pupils love for the Fatherland and for the ruling dynasty.'"<sup>3</sup>

<sup>1</sup> Cf. Neubauer, *op. cit.*

<sup>2</sup> Quoting from Nadler's *Rathgeber für Volksschullehrer*.

<sup>3</sup> Professor Greene contrasts these doctrines with that of the eminent French historian Laveisse, who says: "The cultivation of national spirit is a delicate affair. It is necessary above all

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How carefully the ruling authorities are to lose no opportunity of spreading the doctrines they desire to be held by the people, even though the distortion or suppression of facts is involved, is shown in the incident which H. H. Boyesen told to his American friend, Talcott Williams, who describes it as follows:

Hjalmar Hjorth Boyesen issued thirty years ago a life of Goethe, of which I wrote a review which brought us in close touch. It had been published in German, and I asked him as to its success. He told me that when he went to Germany he received a polite invitation to come to see the Minister of Instruction (also of ecclesiastical affairs) in Prussia and found the minister at his desk with a copy of the volume in his hand. "This," said the minister, "we feel is the best life of Goethe that has been written, but there are two chapters in it which dwell upon the liberal views of Goethe, which we all regret, which he would never hold to-day, which have no real part in his life as a whole. If you will take this volume, leave out these chapters, or rewrite them so they are not a republican propaganda, I will put it into our schools wherever there is a course in literature. All the other units of the Empire will follow and Austria will probably do the same." Boyesen said to me: "I looked at him as he sat there in his undress uniform and I realized I was face to

to strengthen the national love of native land, to make this instinct intelligent and to illumine it, but, in France, we must never forget the man in the Frenchman nor belittle for the apparent profit of our own country the work of mankind."

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face with the military power of a great country stifling freedom, and I told him as politely as I could that nothing would induce me to change those chapters. As it was copyrighted in Germany and by other countries of the Geneva Convention, I knew that the minister could not alter it; but the dream of royalties which would have meant to me a competence for life, if this book were once made a text-book, which came before me when I saw the volume in his hand, vanished.”<sup>1</sup>

That the political pressure which is exerted from above to control the results of teaching is not limited to the lower schools but extends through the Gymnasia and the Universities is certain. There are no higher institutions of learning in the world where, in general, freedom of teaching is more fully recognized than in Germany, but from this freedom to speculate and write and teach, matters of political policy are excepted. Every professor knows that his advancement, or even his very tenure of office, will be endangered if he gives expression to views that are in opposition to those of the Government. And, in fact, no person known to have such views has any chance whatever to obtain an original teaching appointment.

In another chapter reference is made to the warn-

<sup>1</sup> Talcott Williams, *How the German Empire has Menaced Democracy*. Published by the National Security League.

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ing served by the Government upon the eminent university professor, Walther Schücking, simply because in one of his lectures he said that he would not discuss the divine right of rulership since he did not consider that it had juristic significance. This expression of opinion showing as it did certainly no radical independence of thought nevertheless was in contrast to what those in authority expect from its state-appointed professors.

In truth, however, so successfully has the ruling political philosophy of the State been spread, that it appears that German university professors as a class, scientifically trained though they are, are content to look to those in authority over them as the source whence political truth is to be obtained. To those in control of the State they turn as do devout Roman Catholics to the ex cathedral utterance of the head of their Church. Thus we have the statement of one of the most eminent of their own number, Professor Otto Harnack, that intelligent and highly educated men in Germany are constantly found expressing opinions on political questions "which betray no trace of convicted political thought, but merely rest on belief in authority, or on purely

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personal inclinations and caprice.”<sup>1</sup> In other words thus scientific methods and standards are abandoned when the political field is entered. In truth, however, no further demonstration is needed that, as a body, the intellectual leaders of Germany are willing to accept the mere *ipse dixit* of their government with reference to matters political, than the famous declaration of “truths” which nearly one hundred of them signed at the beginning of the war.

As regards History in particular, it has been known that Prussian Historians for a generation or more have constituted a distinct “school,” characterized by the doctrine that historical facts should be so presented as to give support to nationalistic policies. In this respect the historian Treitschke represents only in an extreme form a purpose and method which has been characteristic of modern Prussian historical writings.<sup>2</sup>

But not only by means of History is political philosophy taught in Germany. The same is true of metaphysics, law and theology. As is well known,

<sup>1</sup> Quoted by Dawson. *What is Wrong with Germany?* p. 60.

<sup>2</sup> See the very valuable chapter on the Prussian School of Historians in Gooch’s *Historians of the Nineteenth Century*, a work published several years before the outbreak of the present war.

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law is taught in the Universities not so much with a view to preparing the students to become practicing lawyers or judges, as to give to them a knowledge of the law as an historical science and a philosophy of right. Certain it is, at any rate, that in all the universities philosophies of jurisprudence constitute an important part of the legal instruction that is given. The same is true of theology, that subject being kept in the closest possible relation to metaphysical and ethical speculations. And, as for the metaphysicians themselves, we know how many of them since the time of Kant have not been content until they have applied their premises to matters political—but never so as to antagonize the Prussian doctrines of State and monarchy.

*The Psychology of the Situation.*—One further phase of our inquiry into the Prussian political mind remains to be considered.

We have shown the instrumentalities available to the Prussian Government for inculcating in its people whatever political philosophy it is desired they should hold. We have shown what that philosophy is and what its logical implications are. But it remains to be shown how those in authority have come sincerely to hold these extraordinary beliefs, and why it

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is that the minds of those over whom they have rule have been so receptive to them; for, notwithstanding the agencies which existed for the dissemination of these views, it is incredible that they should have been so universally accepted, if for some reason or other, their minds had not been eager to receive them. Thus we are brought to the psychology of the situation.

At this point it is necessary to make a statement which may at first seem paradoxical, but which, in reality, is not. This is, that though there is every reason to believe that the rulers and ruled alike sincerely believe in the philosophy which has been outlined in the earlier chapters of this volume, its premises and the principles logically deduced from them have not furnished the real reasons for the aggressive and ruthless policies of the Prussian State and its people. The real reason has been nothing nobler than a sordid and selfish desire for the prestige and material advantages which paramount political power, if realized, would be able to secure. The existence of this contradiction between the motives which have been sincerely avowed, and the motives which have been actually operative, needs to be ex-

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plained. This explanation the modern science of psychology supplies.

The fact is now well established that, as a universal rule, men, because they deem themselves to be rational beings, are led to formulate rational grounds or justifications for the acts which they have done or intend to do. Not to do this, is, of course, to confess to themselves that they have acted or intend to act in an irrational or ethically unjustifiable manner. The desire, or *Wido* as it is called, is the real reason for their acts; the theories or philosophies which they construct are but the means whereby they are enabled to save their self-respect, and, if they are able to convince others of the truth of the motives and principles which they draw, to preserve their respect in the eyes of the rest of the world.

This explanation of the origin of philosophies of conduct holds as true when the real desires are such as may be satisfied without a violation of accepted ethical standards of conduct as when they do involve such a violation. The only difference is, and this is the point that modern psychology has made especially plain, that when the motives are such as are not ethically defensible when judged by ordinary standards of conduct, the individual, so long as he retains

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any self-respect or desire for the respect of others, will not admit even to himself that these motives are operative, but will affirm the existence of certain special facts, or postulate certain abstract principles from which as premises he may, by logical deduction, justify his conduct. Thus by a veritable instinct, rather than by cunning or deliberate hypocrisy, he forces the real motive out of his active consciousness, and comes really to believe that he is actuated by the motives which are made rational and ethical by the premises which he has been led to adopt.

This is not an illustration of what has been termed "the will to believe." The process is more subtle and unconscious than what is thus indicated. The agent is thoroughly self-deceived. He is convinced that his motives are those which he avows. He may be aware that what he thus feels justified in doing will redound to his own advantage and satisfy desires of which he is aware. But none the less he believes that, as a purely rational proposition, he has justification for what he does.

To use a modern psychological term, a suppressed desire constitutes a "complex" located outside of the active consciousness, but nevertheless able to influence it. It operates in a manner not dissimilar to

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the predispositions which every individual has, by reason of interest, personal experience, or general mental make-up to give credence to certain statements of facts and reject others, or to find certain arguments convincing and others without probative value.

Dr. Bernard Hart, lecturer in psychiatry in the University Hospital at London, in a little book of exceptional interest, entitled *The Psychology of Insanity*, discusses irrationality in the sane as well as in the mentally defective, and upon the point which we are discussing, has the following to say:

A complex may exert a pronounced effect upon consciousness, although the individual himself may be unaware of its action—that is to say, he may be altogether ignorant of the causes which are really determining his own mental processes. An example will make this statement intelligible. When a party politician is called upon to consider a new measure, his verdict is largely determined by certain constant systems of ideas and trends of thought, constituting what is generally known as “party bias.” We should describe these systems in our newly acquired terminology as his “political complex.” The complex causes him to take up an attitude towards the proposed measure which is quite independent of any absolute merits that the latter may possess. If we argue with our politician, we shall find that the complex will reinforce in his mind those arguments which support the

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view of his party, while it will infallibly prevent him from realizing the force of the arguments propounded by the opposite side. Now it should be observed that the individual himself is probably quite unaware of this mechanism in his hand. He fondly imagines that his opinion is formed solely by the logical pros and cons of the measure before him. We see, in fact, that not only is his thinking determined by a complex of whose action he is unconscious, but that he believes his thoughts to be the result of other causes which are in reality insufficient and illusory. This latter process of self-deception, in which the individual conceals the real foundation of his thought by a series of adventitious props, is termed "rationalization."

The application of these psychological principles to the Prussian or Teutonic mind is clear enough. The real cause of the acts of the German State has been the desire, by any means possible, to obtain greater and still greater power so that it may stand paramount among the nations of the world. This desire has involved motives and actions that stand in manifest opposition to the ordinary standards of conduct, whether of individuals or peoples in their dealings with one another. Driven therefore by a desire to rationalize their actions to themselves, and to defend themselves in the forum of the world's conscience, the Prussians have developed a justifying political philosophy which, though resting upon prem-

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ises which to others are demonstrably false, and leading to acts which have horrified all the rest of the world, is nevertheless believed in as true.

Dr. Hart, in the volume to which reference has been made, makes no attempt, as we have done, to apply principles of psychology to the Teutonic mind as it has been revealed in the present war. In another recent psychological study, however, this attempt has been made. This volume, by Mr. W. Trotter, bears the title *Instincts of the Herd in Peace and War*, and so illuminating is his analysis that, though at the risk of remaining too long in the psychological field, the author feels justified in summarizing his conclusions.

Mr. Trotter's chief concern, as the title of his study indicates, is with the instincts of the herd whether as applied to animals or to man. He points out various types of gregariousness which are manifested by different species of the biological world, and finds substantially the same instincts exhibited in different societies of men. The Germans, unfortunately for themselves as well as for the rest of the world, while seeing more clearly than possibly any other race the value of a conscious and deliberate direction from above of the thoughts of the people,

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have, for reasons which the accidents of their history largely explain, been led to develop to its highest pitch what Mr. Trotter terms the "lupine" type of gregariousness—a type which other civilized nations have sought, and with gradual success, to eliminate and replace with a socialized type according to which the welfare of the group is secured without the sacrifice of the freedom and variety of the individual. Describing this lupine type, Mr. Trotter says:

The functional value of the herd instinct in the wolf is to make the pack irresistible in attacking and perpetually aggressive in spirit. The individual must, therefore, be especially sensitive to the leadership of the herd. The herd must be to him, not merely as it is to the protectively gregarious animal, a source of comfort, and stimulus, and general guidance, but must be able to make him *do things* however difficult, however dangerous, even however senseless, and must make him yield an absolute, immediate, and slavish obedience. The carrying out of the commands of the herd must be in itself an absolute satisfaction in which there can be no consideration of self. Towards everything outside the herd he will necessarily be arrogant, confident, and inaccessible to the appeals of reason or feeling. This tense bond of instinct, constantly keyed up to the pitch of action, will give him a certain simplicity of character and even ingenuousness, a coarseness and brutality in his dealings with others, and a complete failure to understand any motive unsanctioned by the pack. He will believe the pack to be impregnable and irresistible, just, and good, and will readily ascribe to

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it any other attribute which may take his fancy, however ludicrously inappropriate.

Even if we accept this analysis of the lupine herd instance only for illustrative purposes—to Mr. Trotter, however, it has a direct and real application—it certainly serves in a remarkable manner, to describe the Teutonic mind as it has found expression in word and deed, especially since the outbreak of the present war. This mind has shown itself “at times as simplicity or even childishness, as a boorish cunning, as an incredible ant-like activity, a reckless savagery of gloating in blood, a simple-minded sentimentality, as outbursts of idolatry, not of the pallid, metaphorical modern type, but the full-blooded African kind, with all the apparatus of idol, and fetish and tom-tom, and, with it all, a steady confidence that these are the principles of civilization, of truth, of justice, and of Christ. . . . This disbelief in altruism, and over-valuation of fear and self-interest, seem to be regarded by her as evidence of a fearless and thorough grasp of biological truth, and are often referred to as ‘true German objectivity, or the German “sense of reality.”’”

Mr. Trotter's conclusion from this analysis is that, because of its very nature, nothing but a thorough

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defeat for Germany can destroy this psychological condition.

If she is allowed to escape under conditions which in any way can be sophisticated into a victory, or, at any rate, not a defeat, she will continue to hate us as she continued to hate her victim France. . . . The susceptibility of the individual German to a harsh and even brutally enforced discipline is well known. The common soldier submits to be beaten by his sergeant, and is the better soldier for it; both submit to the bullying of their officer, apparently also with profit; the common student is scarcely less completely subject to his professor, and becomes thereby a model of scientific excellence; the common citizen submits to the commands of his superiors, however unreasonably conceived and insultingly conveyed, and becomes a model of disciplined behavior; finally, the heads of the State, combining the most drastic methods of the sergeant, the professor and the official, wins not merely a slavish respect, but a veritable apotheosis. Germany has shown unmistakably the way to her heart; it is for Europe [and America] to take it.

## CHAPTER IX

### CONCLUSION

Under any form of government, however autocratic, be it a czardom or a royal absolutism, the determinations of the sovereign are necessarily dictated in very large measure by the opinions of the advisers by whom he is surrounded. In some cases the conditions are such that ecclesiastical influences are dominant and the government becomes a practical theocracy. In other cases, there are noble or other privileged classes whose will cannot be resisted. In still other cases, plutocratic forces may in fact be all controlling, and there have been not a few historical instances when feminine influence, of the wife or of the mistress, has been dominant. In the case of Prussia, it would appear that, during recent years at least, the military leaders, speaking their will through the Great General Staff, has been able to dictate the policies of the State not only with reference to matters military but of foreign affairs. In an often quoted statement, Clausewitz declared that

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war is but a continuation of the policy which precedes its declaration, but it is the proper province of the civil government and especially of the department of foreign affairs to determine what that policy should be. But in Prussia, it seems to be demonstrated that the military arm of the government whose only legitimate function is to carry out the state policies formulated and adopted by the civil branches of government, has, like a Frankenstein, become stronger than its creator and principal, and itself has exercised a determining voice as to the policies to be pursued. Mr. Gerard, late Ambassador of the United States to the German Empire, in his recent volume,<sup>1</sup> discusses this question. "Where," he asks, "does the ultimate power reside in Germany? Where is the force which controls the country? What was the mysterious power which changed, for instance, the policy of the German Empire towards America, and ordered unrestricted submarine war at the risk of bringing against the Empire a rich and powerful nation of over a hundred million population?"

Of the answers to these questions Mr. Gerard, with his four years of direct dealing with the government

<sup>1</sup> *Face to Face with Kaiserism*, Chapter II.

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at Berlin, has no doubt whatever. The Foreign Office, he says, did not have the decision. The Reichstag, of course, played no influential part. Not even the voice of the Bundesrath was, or is, decisive. "The one force in Germany," says Mr. Gerard, "which ultimately decides every great question, except the fate of its own head, is the Great General Staff." "On one side of the Königs-Platz in Berlin," he continues, "stands the great building of the Reichstag, floridly decorated, glittering with gold, surrounded by statues and filled, during the sessions of the Reichstag, with a crowd of representatives who do not represent, and who, like monkeys in a cage, jibber and debate questions which they have no power to decide. Across the square and covering the entire block in a building that resembles in external appearance a jail, built of dark red brick, without ornament or display, is the home of the Great General Staff. This institution has its own spies, its own secret service, its own newspaper censors. Here the picked officers of the German army, the inheritors of the power of von Moltke, work industriously. Apart from the people of Germany, they wield the supreme power of the State, and when the Staff decides a matter of foreign policy or even an internal

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measure, that decision is final. . . . I do not think the Emperor himself, unless backed by the whole public opinion of Germany, would dare to withstand the Great General Staff which he himself creates."

This analysis of the situation agrees exactly with the revelations made in the recently published memorandum of Count Lichnowsky, Germany's Ambassador at the Court of St. James, and with the letter of Herr Mühlon, a former director of the great Krupp concern, with regard to the deliberate decision made by Germany to hazard a European war.

When we say, however, that a man, be he a monarch or a private citizen, is controlled by the judgment of his advisers, we do not thereby lessen the responsibility for the decisions which he makes. The Kaiser thus remains personally responsible for the calamitous war that for over four years has desolated the world. During the nearly thirty years of his reign, he has sought every possible occasion to exalt the military power of his country—not simply to increase its size and perfect its organization and equipment, but to stimulate the militaristic spirit, to prefer military prestige above any other form of social distinction, and to reiterate that to his army and navy the safety and continued development of

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his people are entrusted. If, then, he finally succeeded in creating an agency whose influence he himself could not successfully resist, his was the fault—*sua culpa, sua maxima culpa*.

In fact, however, all the evidence which we now have goes to show that, since 1911 at least, the Kaiser has been personally convinced that it would be necessary for Germany to fight for the increased political power which he believed it to be her right to obtain, and that the most favorable moment should be seized for employing this means. It may be that before 1911 he had hoped that the mere threat of the armed force possessed by the Empire would be sufficient to enable Germany to realize her aggressive aims; but, after the outcome of the Agadir incident, he apparently decided that this could not be done. We know that he felt keenly the criticism in his own country that Germany had met a diplomatic defeat in Morocco when, having made what had amounted to an open threat he had been obliged to content himself with concessions of very slight value. And this chagrin and sensitiveness to criticism at home is seen reflected in his conversation with Herr Krupp von Bohlen, reported by Herr Mühlon,

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when, says Herr Bohlen, "the Kaiser told him that he would declare war immediately if Russia mobilized, and that this time people would see that he did not turn about. The Kaiser's repeated insistence that this time nobody would be able to accuse him of indecision had, he said, been almost comic in its effect." Likewise in his conversation with Dr. Helferich, the Kaiser is reported as having said that "this time there would be no oscillation."

It is a general principle of international law that each nation should be left free from outside pressure to adopt and maintain such form of government as it will, provided it be one that is able to maintain effective control over its own territory, and, in general, fulfill the international obligations laid upon it by international law or by the special agreements it has entered into. This principle of international intercourse is founded not so much upon the idea that each nation has an inherent moral right to determine the kind of political rule under which it is to live, as it is upon the practical proposition that thus peace will be promoted by diminishing the opportunities, or rather the excuses, for interference

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and intervention by one or more States with the domestic affairs of another State.

In view of this general principle it may be asked with what right or justice are the Entente Powers now demanding, as a condition of permanent peace, that Prussia shall effect a radical change in her scheme of political rule, or at least in the principles upon which it is founded, and upon which, in the past, it has been operated?

The answer to this question, shortly stated, is this:

As regards the particular monarch now reigning, it has appeared that he and the advisers by whom he has seen fit to surround himself have no respect for their own covenanted word and no regard for the rights of other peoples as sanctioned by long-established rules of international law. For the sake of securing his own end, he has shown no compunction in visiting upon wholly innocent persons—the Belgians, for example—immeasurable and irremediable injuries. This he has justified to himself as an agent of the Almighty, and, acquiescing in this claim, the people of Germany have been led to support him. Giving motive force to his acts has, of course, been the assumption that he is the legislative mouthpiece and the executive arm of a transcendent being, the

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National State of Germany, which has for its aim and mission to spread throughout the world that Kultur which it has itself created. When thus conceived it is clear that the Prussian conception of monarchy assumes a significance which leaves it no longer a matter with which only the Germans themselves are concerned. Until this doctrine is discredited, there can be no possible security to other peoples. It is, therefore, a matter of the merest precaution and self-defense that the Entente Powers and the United States should demand of the German people that, if they wish to continue to be monarchically governed, they should eliminate from their political philosophy and from their constitutional practice the features which have made possible the policies which their government has adopted.

The demand, therefore, of the Allied Powers that Prussian autocracy be overthrown is not based upon a claim upon their part that they have a right to impose their own political ideas upon the Germans, for if this were so they would subject themselves to one of the chief indictments which they have brought against the Prussians. Rather, their contention is compacted of two convictions: That only thus can they obtain treaty agreements the binding force of

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which they can have an assurance will be respected; and that only thus will it be possible to prevent a continued acceptance by the German people of political principles and of national policies which not only furnish a constant menace to international peace and comity, but threaten to destroy civilization itself. As it now appears to the United States and to the Entente Powers, but two alternatives appear tolerable. Either the political power of Germany must be so weakened that it can no longer endanger the world, or it must be taken out of the autocratic control of those who have so misused it.

Stated in other words, the conviction of the Entente Powers is that this much at least may be said of democracy: That released from false teaching imposed upon them from above, and left free to form and express their own judgments regarding matters of public policy and of public morality, no intellectually enlightened people would adopt or support such policies as have been framed by the autocratic rulers of Germany and sought to be executed as divine commands. This, then, is the real meaning of the demand that the world must be made safe for democracy. Never again must it be possible for a few men intoxicated with their own power and de-

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mented by a belief in the divine origin of their own authority to plunge a whole world into an abyss of horror and suffering.

The last question to be considered is whether it is right or durable that the other nations of the world should tolerate or enter into even formal international relations of comity with a people holding such a doctrine of the State as I have described. To this the answer must be no!

The rightful scope of tolerance in matters of deed as well as of thought should be broadly defined and observed, especially by those peoples who have placed liberty of nations as well as liberty of individuals high among their ideals. And were the influence and attempted application of the perverted political principles which we have been considering confined within the territorial limits of the State whose ruler and subjects accepted them, it might be possible for the peoples of the rest of the world to maintain a position, not of indifference, or of intellectual neutrality, but of non-interference, confining their action to quarantine precautions against infection. But when, as is the present case, the world finds it-

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self confronted with a powerful people not only possessing all the means for offensive war, but obsessed with a paranoid persuasion of their own superexcellence, and convinced, as declared by thousands of voices, that to them has been given by divine providence the task and duty of spreading their distinctive Kultur throughout the world, and asserting that the national State which they have created, and which may select its own means, is the instrumentality for realizing this end—when this is the condition which confronts the world, no opportunity for the practice of tolerance is preserved. The Teutons have themselves denied the principle of toleration and asserted that nations weaker than themselves have no rights that need be respected. *Homo homini lupus*, man the wolf of man, is the proposition to which they have committed themselves. The victory is to the nation of the greatest organized military might, and woe to the conquered is their only reply to those who are thus overcome. Let those who would continue to resist the operation of nature's law, they have said, be left only their eyes with which to weep.

When, then, we find these Prussian doctrines of political power given a militant phase, and backed by an enormous military establishment, no alterna-

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tive is given to the rest of the world but to meet and, if possible, to stamp them out of existence. As Vernon Kellogg has said, "There can be but one answer to a people that insists on success in war as the criterion of racial advancement, and as the most important factor in human evolution. We have to accept, for the moment, the challenge to bloody debate. But when we have debated the matter in this horrible way, and have won, let us see to it that the winning is the last of its kind necessary."

The end for which the war is carried on need not be a punitive one. This does not mean that the war should be given a punitive purpose. The purely vindictive or retributive infliction of suffering or of injury in any form cannot be ethically defended, although Germany's leading philosopher, Kant, taught the doctrine in its baldest form. But force applied for the purpose of prevention or deterrence, or the securing of justice, is not only ethically allowed but imperatively demanded. Leaving aside, then, all questions of territorial boundaries, or other material national interests, the world will receive no adequate compensation for the enormous sacrifices it has made, unless the final terms of peace are such that, so far as is humanly possible, the claims of

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justice are satisfied by the payment of indemnities to those who have been wronged, and by the imposition upon the Germans of conditions which will demonstrate to them that theirs is a system of political morality which the civilized world will not tolerate.

Of this much Americans are convinced: That, despite the increase of political power the Prussian State has obtained, despite the material prosperity its people may have secured, theirs is a political system which is false in its premises and maleficent is its operation. The education of the Prussian people in the art of self-government has been neglected; their capacity to form an intelligent public opinion with regard to matters political has remained undeveloped; military authority has been exalted until it has taken control of the policies of the State; administrative efficiency has been obtained by the maintenance of an autocracy which has deprived the governed of a political responsibility which, if possessed, would have increased their appreciation of the ethical obligations imposed by national and international life, and thus made possible, if, indeed, it has not actively stimulated, the development of an ideal of national greatness which

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is inconsistent with a true conception of civilization. Right has been sacrificed to might, political liberty to state authority, and individual spontaneity and freedom to organized efficiency; with the result, that state action has freed itself from the limitations which ordinary morality imposes, and the entire mind of the people has been corrupted; and that, with their pride swollen with a contemplation of the material success they have gained, the Germans have lost respect for, and appreciation of, the value of a civilization and political ideals which differ from their own. Misled by this distorted perspective, the Germans have adopted a *Weltpolitik* which has brought them into conflict with other nations and made inevitable the terrible conflict which is now devastating almost all Europe and has, indeed, kindled the flames of war in the four quarters of the globe.



## APPENDIX

### PART OF THE ADDRESS OF THE GERMAN CHANCELLOR OF OCT. 5, 1918, DEALING WITH THE POLITICAL CHANGES TO BE PUT INTO EFFECT

"In accordance with the imperial decree of September 30, the German empire has undergone a basic alteration of its political leadership.

"As successor to Count George F. von Hertling, whose services in behalf of the fatherland deserve the highest acknowledgment, I have been summoned by the emperor to lead the new government.

"In accordance with the governmental method now introduced, I submit to the Reichstag, publicly and without delay, the principles upon which I propose to conduct the grave responsibilities of the office.

"These principles were firmly established by the agreement of the federated governments and the leaders of the majority parties in this honorable house before I decided to assume the duties of chancellor. They contain, therefore, not only my own confession of political faith, but that of an overwhelming portion of the German people's representatives, that is of the German nation which has constituted the Reichstag on the basis of a general, equal and secret franchise, and according to their will. Only the fact that I know the conviction and will of the majority of the people are back of me has given me strength to take upon myself conduct of the empire's affairs in this hard and earnest time in which we are living.

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"One man's shoulders would be too weak to carry alone the tremendous responsibility which falls upon the government at present. Only if the people take active part, in the broadest sense of the word, in deciding their destinies; in other words, if responsibility also extends to the majority of their freely elected political leaders, can the leading statesman confidently assume his part of the responsibility in the service of folk and fatherland.

"My resolve to do this has been especially lightened for me by the fact that prominent leaders of the laboring class have found a way in the new government to the highest offices of the empire. I see therein a sure guarantee that the new government will be supported by the firm confidence of the broad masses of the people, without whose true support the whole undertaking would be condemned to failure in advance. Hence, what I say to-day I say is not only in my own name and those of my official helpers, but in the name of the German people. . . .

"I am convinced that the manner in which imperial leadership is now constituted with coöperation of the Reichstag is not something ephemeral, and that when peace comes a government cannot again be formed which does not find support in the Reichstag and does not draw its leaders therefrom.

"The war has conducted us beyond the old multifarious and disrupted party life which made it so difficult to put into execution a uniform and decisive political wish. The formation of a majority means the formation of a political will, and an indisputable result of the war has been that in Germany for the first time great parties have joined together in a firm, harmonious program and have thus come into position to determine for themselves the fate of the people.

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"This thought will never die. This development will never be retracted (applause), and I trust that so long as Germany's fate is ringed about by dangers those sections of the people outside the majority parties and whose representatives do not belong to the government will put aside all that separates us and will give the fatherland what is the fatherland's.

"This development necessitates an alteration of our constitution's provisions along the lines of the imperial decree of September 30, which shall make it possible that those members of the Reichstag who entered the government will retain their seats in the Reichstag. A bill to this end has been submitted to the federal states and will immediately be made the object of their consideration and decision.

1. Human Rights -

2. Human - Economic

1. Human Rights -

entity, Supreme; force  
from one culture - moral

2. Force - State judge

3. State - State judge

4. Force - Force judge, Right, Justice, Truth  
Human Rights

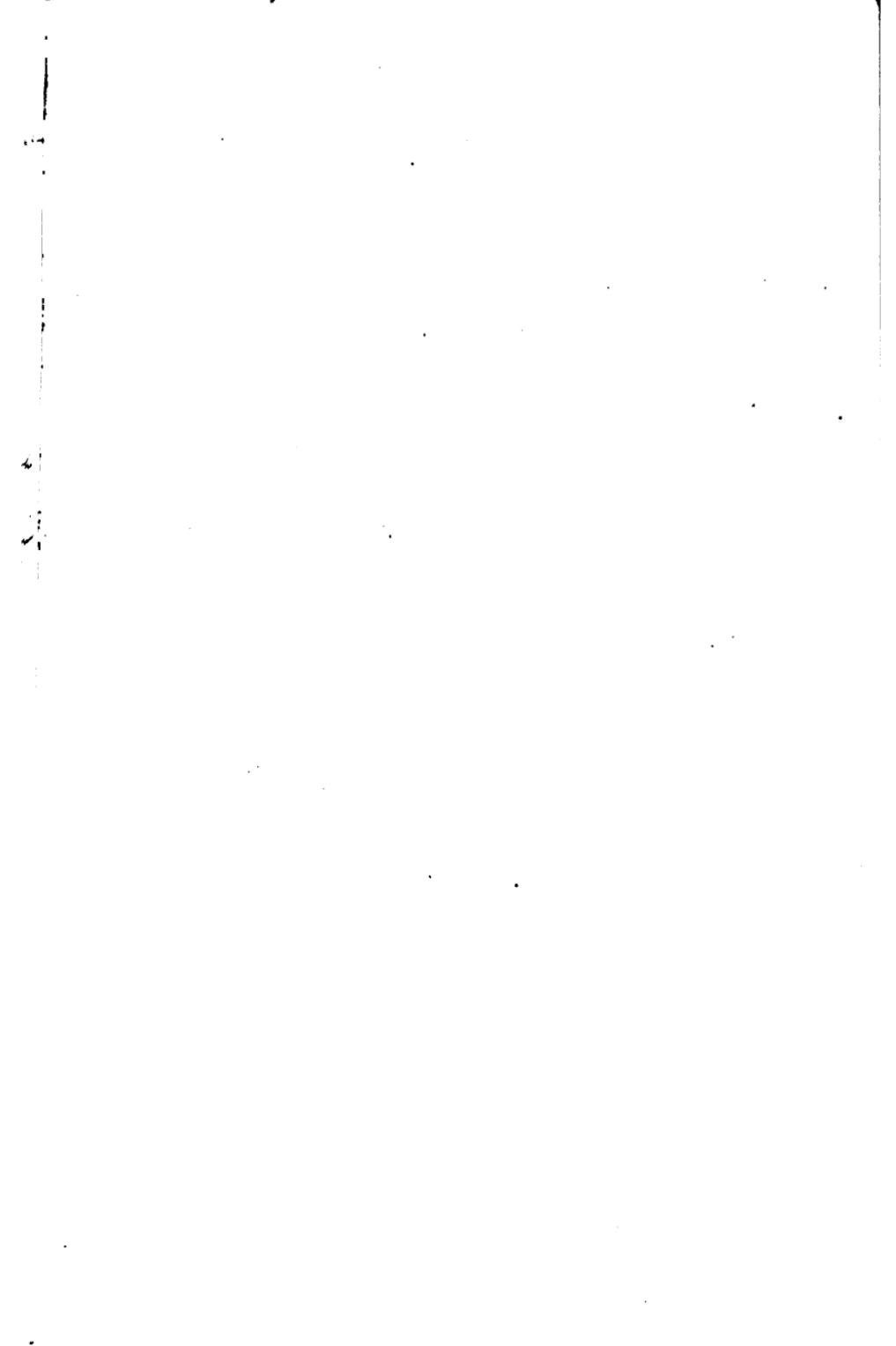
5. Human - Force judge

6. Force - Force judge

7. Order, Rule, Discipline

8. Freedom - Intel, Freedom

9. Individual, Private, Freedom



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